

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 - - -
5

6 IN RE: NATIONAL : HON. DAN A.
7 PRESCRIPTION OPIATE : POLSTER
8 LITIGATION :
9 :
10 APPLIES TO ALL CASES : NO.
11 : 1:17-MD-2804
12 :
13

14 - HIGHLY CONFIDENTIAL -
15

16 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW
17 - - -
18

19 January 15, 2019
20 - - -
21

22 Videotaped deposition of
23 KEITH FROST taken pursuant to notice, was
24 held at the offices of Morgan Lewis
 Bockius, 1701 Market Street,
 Philadelphia, Pennsylvania beginning at
 9:30 a.m., on the above date, before
 Michelle L. Gray, a Registered
 Professional Reporter, Certified
 Shorthand Reporter, Certified Realtime
 Reporter, and Notary Public.

25 - - -
26 GOLKOW LITIGATION SERVICES
27 877.370.3377 ph| 917.591.5672
28 deps@golkow.com
29

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: 2 3 BARON & BUDD, P.C. 4 BY: STERLING CLUFF, ESQ. 5 Encino Plaza 6 15910 Ventura Boulevard, Suite 1600 7 Encino, California 91436 8 (818) 839-2333 9 Scluff@baronbudd.com 10 11 - and - 12 13 BARON & BUDD, P.C. 14 BY: WILLIAM G. POWERS, ESQ. 15 600 New Hampshire Avenue, NW 16 The Watergate, Suite 10-A 17 Washington, D.C. 20037 18 (202) 333-4562 19 Wpowers@baronbudd.com 20 Representing the Plaintiffs 21 22 MORGAN LEWIS & BOCKIUS, LLP 23 BY: JOHN P. LAVELLE, JR., ESQ. 24 1701 Market Street Philadelphia, Pennsylvania 19103 (215) 963-4824 John.lavelle@morganlewis.com - and - MORGAN LEWIS & BOCKIUS BY: JOHN M. MALOY, ESQ. 101 Park Avenue New York, New York 10178 (212) 309-6734 john.maloy@morganlewis.com Representing the Defendant, Rite Aid of Maryland and the Witness</p>	<p style="text-align: right;">Page 4</p> <p>1 TELEPHONIC APPEARANCES: 2 3 JONES DAY 4 BY: CHRISTINE D. PROROK, ESQ. 5 77 West Wacker Drive 6 Chicago, Illinois 60601 7 (312) 269-4113 8 Cprorok@jonesday.com 9 Representing the Defendant, Walmart 10 11 ARNOLD & PORTER KAYE SCHOLER 12 BY: SEAN A. MCCORMICK, ESQ. 13 777 South Figueroa Street, 44th Floor 14 Los Angeles, California 90017 15 (213) 243-4000 16 Sean.mccormick@arnoldporter.com 17 Representing the Defendants, Endo Health 18 Solutions; Endo Pharmaceuticals, Inc.; 19 Par Pharmaceutical Companies, Inc. f/k/a 20 Par Pharmaceutical Holdings, Inc. 21 22 JACKSON KELLY, PALL 23 BY: ANGELA L. FREEL, ESQ. 24 221 NW Fifth Street Evansville, Indiana 47708 (812) 422-9444 alfreel@jacksonkelly.com Representing the Defendant, Amerisource Bergen Drug Corporation</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES: (Cont'd.) 2 3 PIETRAGALLO GORDON ALFANO BOSICK & 4 RASPANTI, LLP 5 BY: DOUGLAS K. ROSENBLUM, ESQ. 6 1818 Market Street, Suite 3402 7 Philadelphia, Pennsylvania 19103 8 (215) 320-6200 9 Dkr@pietragallos.com 10 Representing the Defendant, Cardinal 11 Health 12 13 COVINGTON & BURLING, LLP 14 BY: J. ALEJANDRO BARRIENTOS, ESQ. 15 850 Tenth Street, NW 16 Suite 586N 17 Washington, D.C. 20001 18 (202) 662-5769 19 Abarrientos@cov.com 20 Representing the Defendant, McKesson 21 Corporation 22 23 24</p>	<p style="text-align: right;">Page 5</p> <p>1 APPEARANCES: (Cont'd.) 2 3 ALSO PRESENT: 4 5 Emma Kaboli, Paralegal 6 (Baron Budd - via telephone) 7 8 VIDEO TECHNICIAN: 9 Devyn Mulholland 10 11 LITIGATION TECHNICIAN: 12 Zach Hone 13 14 15 16 17 18 19 20 21 22 23 24</p>

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15	Rite_Aid_OMDL_0023287	
16	Rite Aid	
17	Frost-5 E-mail Thread 184	
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19	Subject, Drug Diversion	
20	Rite_Aid_OMDL_0012113-14	
21	Rite Aid	
22	Frost-6 E-mail Thread 197	
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24	Subject, DEA CFRs	
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2	E X H I B I T S (Cont'd.)	
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5	NO. DESCRIPTION PAGE	
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<p>1 - - - 2 DEPOSITION SUPPORT INDEX 3 - - - 4 5 Direction to Witness Not to Answer 6 PAGE LINE 7 None. 8 Request for Production of Documents 9 PAGE LINE 10 None. 11 Stipulations 12 PAGE LINE 13 None. 14 Questions Marked 15 PAGE LINE 16 None. 17 18 19 20 21 22 23 24</p>	<p>1 - - - 2 BY MR. CLUFF: 3 Q. Good morning, Mr. Frost. My 4 name is Sterling Cluff. I'm from a law 5 firm called Baron & Budd, and I represent 6 plaintiffs in this national opiate 7 litigation. And I'll be taking your 8 deposition today. My colleague next to 9 me is Will Powers, who's also with Baron 10 & Budd. He will be assisting me. 11 And then you may have met 12 the other attorneys around the way. 13 They're all for defendants, except for 14 the trial tech who will be assisting me 15 as well. Just so you know who all is in 16 the room. 17 So to start off, I'd like to 18 ask you if you've ever had your 19 deposition taken before? 20 A. No, I haven't. 21 Q. Okay. Have you ever 22 testified in a trial at all? 23 A. Yes. 24 Q. Okay. So -- and the trial I</p>
Page 11	Page 13
<p>1 THE VIDEOGRAPHER: We are 2 now on the record. My name is 3 Devyn Mulholland. I'm a 4 videographer for Golkow Litigation 5 Services. 6 Today's date is 7 January 15th, 2019. The time is 8 9:30 a.m. 9 This video deposition is 10 being held in Philadelphia, 11 Pennsylvania, in the matter of 12 National Prescription Opiate 13 Litigation. 14 The deponent is Keith Frost. 15 Counsel will be noted on the 16 stenographic record. The court 17 reporter is Michelle Gray and will 18 now swear in the witness. 19 - - - 20 ... KEITH FROST, having been 21 first duly sworn, was examined and 22 testified as follows: 23 - - - 24 EXAMINATION</p>	<p>1 assume you were also placed under oath -- 2 A. Yes. 3 Q. -- so you are familiar 4 with -- 5 Okay. Thank you. 6 MR. LAVELLE: Just wait 7 until the question is finished 8 before you answer it. 9 BY MR. CLUFF: 10 Q. Right. So since you haven't 11 given a deposition before, I'd like to 12 lay down or discuss some sort of rules of 13 the road that we call admonitions. One 14 of them, as your counsel just pointed 15 out, is that we try not to talk over each 16 other because we're trying to take down 17 an accurate written record of today's 18 proceedings. So if you could, to the 19 best of your ability give me a chance to 20 finish my question. I will do my best to 21 let you finish your answer. And your 22 counsel at times today will be 23 interposing objections to my questions. 24 And we should both do our best to let him</p>

<p style="text-align: right;">Page 14</p> <p>1 finish those before we speak as well. 2 Does that make sense? 3 A. Yes. 4 Q. Also because we are taking a 5 written record of the proceedings, we ask 6 that you, to the best of your ability, 7 give an audible answer rather than saying 8 "mm-hmm" or "unh-unh" or shaking your 9 head. Like "yes," "no," "I don't know" 10 or whatever you deem a more appropriate 11 answer to be. Does that make sense? 12 A. Yes. And this is the 13 microphone here in front of me. 14 Q. Yeah, that thing in front of 15 you does appear to be a microphone. That 16 is probably for the telephone though. 17 You've got a microphone on your shirt 18 which is recording you audibly as well. 19 As a reminder, when we take 20 breaks, be sure to take that off, so that 21 you don't walk out with it. 22 Since you're under oath, we 23 will understand today that the answers 24 that you're giving are the best</p>	<p style="text-align: right;">Page 16</p> <p>1 under any medical treatment that would 2 prevent you from giving a full and 3 complete deposition today? 4 A. No. 5 Q. Are there any reasons that 6 your memory or recollection may be 7 impaired during today's deposition? 8 A. No. 9 Q. Okay. Do you understand why 10 you're here to be deposed today? 11 A. Yes. 12 Q. Okay. What is your 13 understanding? 14 A. That there's a lawsuit 15 against some drug companies for the 16 opioid issues going on in the country. 17 Q. I should also give you one 18 more clarification. At times I may ask 19 you questions that could potentially call 20 for an answer that is influenced or based 21 on conversations that you had with your 22 counsel today. If you believe that a 23 question I asked requires you to disclose 24 information or conversations that you had</p>
<p style="text-align: right;">Page 15</p> <p>1 recollection that you can give. In order 2 to make that a clear record for the 3 proceedings we ask that you not guess. 4 However at times I may ask 5 you questions to better explore your 6 recollection or your understanding. And 7 I may also at times ask you for an 8 approximation or an estimate. Do you 9 know the difference between an estimate 10 and an approximation or a guess? 11 A. Yes. 12 Q. Okay. We're going to be 13 covering a lot of information today that 14 may at times seem confusing to you. If 15 at any point in time you don't understand 16 my question, please ask me to clarify it. 17 If not, I will assume that you understood 18 the question. Does that make sense? 19 A. Yes. 20 Q. Okay. Is there any reason 21 today health-wise that you cannot give a 22 full and complete deposition? 23 A. No. 24 Q. Are you on any medication or</p>	<p style="text-align: right;">Page 17</p> <p>1 with your attorney, please let me know. 2 And your attorney will also object if he 3 feels that a question I asked asks for 4 what's called attorney/client privilege. 5 So I don't want you to disclose any 6 attorney/client privilege today. 7 Is that clear? Does that 8 make sense? 9 A. Yes. 10 Q. So going back to the reason 11 you're here to testify today. We 12 noticed -- we as plaintiffs noticed your 13 deposition in relation to a defendant in 14 this case, Rite Aid specifically. 15 Are you currently employed 16 by Rite Aid? 17 A. Yes, I am. 18 Q. And what position do you 19 hold at Rite Aid currently? 20 A. I'm currently a department 21 manager of a department called 22 centralized products. 23 Q. Okay. What does the 24 centralized products department do?</p>

<p style="text-align: right;">Page 18</p> <p>1 A. They pick front -- what we 2 call other front-end items in the stores, 3 cosmetics, energy drinks, vitamins, 4 ethnic beauty care. And we also manage 5 the pseudoephedrine control cage in the 6 building. 7 Q. When you say they pick, what 8 do you mean they pick? 9 A. Our associates get the items 10 and put them in packages or totes to send 11 to our customer stores. 12 Q. So they're actually picking 13 the items out of some group of inventory 14 to be delivered to the stores? 15 A. Yes, out of forward pick. 16 Q. What's a forward pick? 17 A. A forward pick is a location 18 where the product is loose in boxes or 19 sometimes it could be cases. It's an 20 area where, when the orders download, a 21 light lights up. It's called a 22 pick-to-light system. And a number 23 appears. And that's what the store wants 24 of that particular item in that</p>	<p style="text-align: right;">Page 20</p> <p>1 building. But being a manager in the 2 building, part of my responsibility is to 3 help other departments when I see it 4 necessary. So we -- we are a global 5 system where we help each other out. But 6 I'm mainly responsible for my centralized 7 products department. 8 Q. Do you work at the Perryman 9 distribution center? 10 A. Yes. 11 Q. Have you always worked at 12 the Perryman distribution center? 13 MR. LAVELLE: Object to 14 form. 15 THE WITNESS: With Rite Aid, 16 yes. 17 BY MR. CLUFF: 18 Q. So the work that you 19 oversee, other than you are a manager of 20 the centralized products, that is -- that 21 work is conducted at the Perryman 22 distribution center? 23 A. Yes, it is. 24 Q. How long have you held this</p>
<p style="text-align: right;">Page 19</p> <p>1 particular location. And the associate 2 goes to that location, look at the 3 number, and puts the item into the tote 4 or box, and then extinguishes the light, 5 and moves onto the next location for the 6 next item that the store wants. 7 Q. This work that the 8 associates are doing, the picking work, 9 is that happening -- where is that 10 happening? 11 A. Distribution center wide, 12 different departments have the same 13 Pick-to-Light system, it's just they have 14 different items to put into the boxes or 15 totes. 16 One department might have 17 shampoos and bleach. We have cosmetics 18 and vitamins. Another one might have 19 bulk cases that they're put into totes. 20 Q. As a manager in this 21 department, are you assigned to a 22 specific location? 23 A. My department covers 24 different locations to -- to parts of the</p>	<p style="text-align: right;">Page 21</p> <p>1 position as manager of centralized 2 products? 3 A. Well, this is like my second 4 tour of it. Before I was an operations 5 manager of that, when it was -- included 6 pharmacy and our cigarettes department. 7 But that operations manager level has 8 been done away with a few years ago, so 9 now it's a department level position. 10 And so I've been doing this since 2010. 11 Q. You mentioned that this is 12 your second tour as a manager of 13 centralized products. And before that -- 14 or -- or in between those tours maybe, 15 you were an operations manager of 16 pharmacy and cigarettes; is that correct? 17 A. Yes, yes. 18 Q. When did you hold the 19 position of operational manager over 20 pharmacy and cigarettes? 21 A. It gets sort of complex. 22 When they first opened the building I was 23 night operations manager for four and a 24 half years. And all the assistant</p>

<p style="text-align: right;">Page 22</p> <p>1 managers on nightshift from seven 2 departments, which included the pharmacy 3 department, all reported up to me. So 4 that was for four and a half years. 5 And then for another two 6 years as a department manager, I took 7 over the pharmacy department and 8 cigarettes. 9 Then after that, took over 10 other departments as Operations Region 1, 11 Region 2, our satellite facility and 12 shipping department for two years. Then 13 came back to pharmacy for two years as a 14 department manager for Rx, pharmacy, and 15 cigarettes for a year. And then after 16 that I went to the replenishment 17 department which controls all of the 18 drivers and the stockers in the building, 19 for a year and a half. And then came 20 back in 2010 till present to take over 21 the pharmacy and cigarettes and 22 centralized products department. 23 Q. Is the -- the pharmacy and 24 cigarettes, is that a part of the</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Mm-hmm, yes. 2 Q. And during that time you 3 said all of the nightshift -- all the 4 assistant managers in the nightshift 5 reported to you, correct? 6 A. Yes. 7 Q. And you referred to seven 8 departments which included the pharmacy 9 department? 10 A. Yes. 11 Q. What were the seven 12 departments? 13 A. Pharmacy, cigarettes, 14 centralized products, the 15 shipping/outbound department, inbound 16 department, Regional 1 department, 17 Region 2 department, and the 18 replenishment department, stocking and 19 driving. 20 Q. Pharmacy and cigarettes is 21 one department, correct? 22 A. We try to keep it together 23 like that because they both dealt with 24 compliance, state or federal issues. And</p>
<p style="text-align: right;">Page 23</p> <p>1 centralized products department? 2 A. No longer. 3 Q. Was it at the time in 2010? 4 A. Yes. 5 Q. You gave me a lot of 6 information about different positions. 7 So I just kind of want to understand the 8 timeline here. 9 You said when they first 10 opened the building you were a night 11 operations manager for four and a half 12 years? 13 A. Correct. Yes. 14 Q. When you refer to the 15 building, do you mean the Perryman 16 distribution center? 17 A. Yes. 18 Q. Do you recall what -- when 19 that was? 20 A. 1998 in August is when we 21 started the nightshift, until March 2003. 22 Q. So you held the position of 23 nightshift manager from '98 to 2003, is 24 that your recollection?</p>	<p style="text-align: right;">Page 25</p> <p>1 we'd rather have that under one umbrella 2 as opposed to spreading it out. 3 Q. You said after you were the 4 night manager, then you said for another 5 two years you were a department manager 6 over pharmacy and cigarettes? 7 A. No. After the night 8 manager, which is end of February 2003, 9 beginning March 2003, I was operations 10 manager for pharmacy and cigarettes. 11 Q. And how long did you hold 12 that position? 13 A. Oh, that was for two years. 14 Q. So sometime in 2005? 15 A. Mm-hmm. 16 MR. LAVELLE: You -- you 17 need to give an audible answer 18 such as no -- 19 THE WITNESS: I'm sorry. 20 2003 to 2005, yes. 21 BY MR. CLUFF: 22 Q. I believe then you testified 23 that you went to the replenishment 24 department?</p>

<p style="text-align: right;">Page 26</p> <p>1 A. From 2005 to 2007 they put 2 me in charge of Region 1, Region 2, 3 outbound, and our satellite facility. 4 And that was for two years. 5 Q. What's Region 1? 6 A. It's, if you walk into our 7 stores, it's any -- a lot of -- shampoos, 8 candy bars, hair nets, nail clips, 9 bleach, a lot of different front-end 10 items. 11 Q. What's Region 2? 12 A. Region 2 is sort of like the 13 Region 1 except it's more bulk case. We 14 have a lot of cases going out and very 15 large items, like your 2, 3-gallon kinds 16 of bleach, bulk kind of picking. 17 Non-conveyor belt kind of items that 18 people have to pick by hand on -- with 19 machinery and you can't put it on the 20 line to convey to our shipping 21 department. 22 Q. What -- what other 23 responsibilities of the outbound 24 department and the satellite facility</p>	<p style="text-align: right;">Page 28</p> <p>1 Perryman distribution center, so we had 2 to rent a facility to accommodate that. 3 Then that was one of those seasonal 4 things, so you get a lot of product for 5 like three or four months. The season go 6 away, then you might get garden, tools 7 for a couple months. So it was a 8 facility that the population of the 9 workers would go up and down as -- as the 10 year went along. 11 Q. So what was the next 12 position that you held after 2007? 13 A. After 2007 I came over to 14 pharmacy again for a year. It was just 15 pharmacy and cigarettes at that time. 16 That's when they eliminated the 17 operations manager level for budgetary 18 reasons. I was there for a year. 19 Q. And what did you do after -- 20 what was your next position after that? 21 A. After that I took over the 22 replenishment department, and 23 replenishment entailed the drivers and 24 stockers, and I was there for a year and</p>
<p style="text-align: right;">Page 27</p> <p>1 that you were managing? 2 A. With the outbound department 3 we had to make sure that all of our 4 trailers were loaded properly and that -- 5 for example, we talk about pharmacy and 6 control drugs, that everything was 7 brought over correctly, that all control 8 drugs and pharmacy packages and totes all 9 looked exactly the same per DEA 10 requirements so you can distinguish 11 between a legend drug or control drug. 12 And that any control drugs brought over 13 to the shipping area were properly being 14 held in control-type cages and handed out 15 and signed for properly to the different 16 trucks that went to our DCs properly. 17 Q. And -- and what about the 18 responsibilities as a manager of the 19 satellite facility, what did that entail? 20 A. I had a department manager 21 work over there. And that was mainly a 22 seasonal facility. When you have 23 harvest, garden, Christmas is a big one. 24 We don't have enough room in our main</p>	<p style="text-align: right;">Page 29</p> <p>1 a half, till 2010. 2 And then I came back to 3 pharmacy and cigarettes in 2010, and 4 centralized products. 5 Q. And those are the positions 6 you've held since 2010, correct, the 7 pharmacy and cigarettes and -- 8 A. Centralized products. 9 Q. Yes. 10 MR. LAVELLE: Please wait 11 until the question is finished 12 before you answer it. 13 THE WITNESS: Okay. 14 BY MR. CLUFF: 15 Q. Between 2010 and the 16 present, what years did you hold 17 managerial responsibilities for pharmacy 18 and cigarettes? 19 A. 2010 to now, so it's nine 20 years later, so far. 21 Q. Were you a manager over 22 pharmacy and cigarettes for that entire 23 time period? 24 A. 2010 till now, yes.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. At what point between 2010 2 and the present were you a manager of the 3 centralized products? 4 A. I am -- same, same period. 5 Q. So those responsibilities 6 are sort of overlapping? 7 A. Yes. 8 Q. Understood. Thank you. 9 During your time period with 10 Rite Aid, excuse me, have you been 11 responsible for managing the distribution 12 or -- or shipping of controlled 13 substances? 14 MR. LAVELLE: Object to 15 form. 16 THE WITNESS: Yes. It came 17 under my purview. 18 BY MR. CLUFF: 19 Q. In -- in what positions were 20 you responsible for overseeing the 21 distribution and shipping of controlled 22 substances? 23 A. What positions? 24 Q. Let me clarify. At one</p>	<p style="text-align: right;">Page 32</p> <p>1 the -- let me back up. When you say III 2 through V, do you mean those are the 3 schedules of controlled substances that 4 you were responsible for? 5 A. Yes. 6 Q. Do you recall if any of 7 those substances included prescription 8 opioids? 9 A. No, I do not. 10 Q. Do you recall if, during the 11 time period when you've worked at Rite 12 Aid, Rite Aid distributed or shipped 13 hydrocodone combination products? 14 A. We shipped hydrocodones. 15 Q. Would your work as a manager 16 have involved overseeing shipments of 17 hydrocodone? 18 A. Yes. 19 Q. Okay. When you used the 20 word "compliance" to refer to the work 21 with the pharmacy and cigarette products, 22 what did you mean by compliance? 23 A. Well, there's different -- I 24 mean, you have pharmacy, and you have</p>
<p style="text-align: right;">Page 31</p> <p>1 point you discussed that, in your 2 experience, Rite Aid tried to keep the 3 pharmacy and cigarettes department 4 together because those both involved 5 compliance. 6 A. Yes. 7 Q. Did -- did your work in -- 8 in those two departments involve 9 overseeing distribution or shipping of 10 controlled substances? 11 A. Yes. 12 Q. Are there any other 13 managerial positions that you held that 14 involved overseeing the shipment or 15 distribution of controlled substances? 16 A. No. Just operations manager 17 or department manager. 18 Q. Do you recall which 19 controlled substances or which types of 20 controlled substances you were 21 responsible for? 22 A. Yes. Not all by name. But 23 we only did III through V. 24 Q. Do you recall if any of</p>	<p style="text-align: right;">Page 33</p> <p>1 cigarettes. Which one are you asking 2 about? 3 Q. Let's focus on pharmacy. 4 A. Okay. Pharmacy, we followed 5 all the regulations that were established 6 in the Code of Federal Regulations that 7 the DEA puts out. And we also followed 8 the Maryland Pharmaceutical Appendix for 9 processing controlled drugs and other 10 pharmacy products. 11 Q. When you refer to the 12 regulations that were established that 13 the DEA put out, what do you mean 14 specifically? 15 A. Well, the Code of Federal 16 Regulations is -- specifies that before 17 you can handle any kind of controlled 18 substance, you have to have procedures 19 which account for the proper receiving of 20 items, make sure they're not counterfeit 21 and they're only coming from registered 22 DEA authority -- vendors, that you store 23 them properly, meaning that you inventory 24 them regularly and that you do not have</p>

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1 expired products in a cage, that when you
2 pick them that you use correct order
3 picking procedures, that you ship it
4 correctly to the stores, and that you
5 properly have controls into the proper
6 shipment of controlled drugs, and you
7 have full accountability and inventory
8 control of all items.

9 Q. During your tenure with Rite
10 Aid, while there was a pharmacy
11 department -- actually, let me ask this
12 other question.

13 Are you aware if Rite Aid at
14 any point stopped distributing or
15 shipping hydrocodone products?

16 MR. LAVELLE: Object to
17 form.

18 THE WITNESS: Rite Aid
19 stopped shipping any controlled
20 substances in 2014, September,
21 October time frame. And that
22 include legend drugs as well.

23 BY MR. CLUFF:

24 Q. Those are what legend drugs?

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1 A. Over-the-counter drugs,
2 other prescription drugs that are not
3 controlled substances.

4 Q. So Rite Aid stopped
5 distributing legend drugs in 2014 as
6 well?

7 A. Yes.

8 Q. Do you -- are you aware of
9 when Rite Aid began distributing
10 hydrocodone products?

11 A. When you mean Rite Aid, are
12 you talking about the Perryman
13 distribution center or Rite Aid in
14 general?

15 Q. Let's start with Rite Aid in
16 general.

17 A. No. It was -- when I -- I
18 was hired in 1998, and they had been
19 doing it a number of years. So I don't
20 know when they started.

21 Q. So when you were hired they
22 were already shipping hydrocodone
23 products?

24 A. Yes.

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1 Q. So when I ask questions
2 about those hydrocodone products then,
3 I'd like us to just understand that my
4 questions refer to that time period
5 before 2014 when Rite Aid stopped
6 distributing them. Does that make sense?

7 A. Yes.

8 Q. So before Rite Aid stopped
9 distributing the hydrocodone products in
10 2014, did Rite Aid have in place policies
11 or procedures to address all of the
12 compliance work that you just described
13 to me?

14 A. Yes.

15 Q. The first one that you
16 mentioned earlier was making sure that
17 the products Rite Aid receives or ships
18 were not counterfeit. Does that make
19 sense?

20 MR. LAVELLE: Object to
21 form.

22 THE WITNESS: Yes.

23 BY MR. CLUFF:

24 Q. Or do you recall that at

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1 least?

2 A. Yes.

3 Q. Would you have been
4 responsible for implementing Rite Aid's
5 policies and procedures about that aspect
6 of compliance?

7 A. I would be responsible to
8 make sure that we had policies and
9 procedures in place, that associates were
10 trained in executing those, and that we'd
11 have audits to make sure that the
12 associates were doing those correctly.

13 Q. You mentioned a number of
14 other compliance activities. We can go
15 look at that list, but I want to just ask
16 a broader question. Were you responsible
17 for making sure that Rite Aid had
18 policies and procedures in place for all
19 of the compliance work that you
20 previously described?

21 A. Yes.

22 Q. You also mentioned associate
23 training. Were you responsible for
24 associate training on all of the

<p style="text-align: right;">Page 38</p> <p>1 compliance work that you previously 2 described?</p> <p>3 A. I was responsible -- I was 4 responsible for ensuring that training 5 was being conducted. I was not an actual 6 trainer.</p> <p>7 Q. And then you also mentioned 8 audits. Were you also responsible for 9 ensuring that compliance was audited?</p> <p>10 A. My responsibility as far as 11 doing audits was an internal thing, 12 ensure that quality was being done 13 correctly, that we were doing inventories 14 on schedule as per the Code of Federal 15 Regulations. But we went beyond that and 16 did internal audits on our own.</p> <p>17 Q. The responsibility for 18 making sure that Rite Aid had policies 19 and procedures in place, associate 20 training, and audits, was that within 21 your managerial responsibilities from 22 1998 to 2014?</p> <p>23 A. Again, I wasn't there the 24 whole time, 1998 through -- I was there</p>	<p style="text-align: right;">Page 40</p> <p>1 responsibility for those -- those job 2 functions or responsibilities?</p> <p>3 MR. LAVELLE: Object to 4 form.</p> <p>5 THE WITNESS: Yes.</p> <p>6 BY MR. CLUFF:</p> <p>7 Q. Who would that be?</p> <p>8 A. Any department managers that 9 would be working there, any assistant 10 managers that would have been working 11 there, the DEA coordinator, as well as 12 any leads that we had at the time. Leads 13 would be our hourly paid supervisors.</p> <p>14 Q. What policies and procedures 15 did Rite Aid have in place between 2003 16 and 2014 to ensure that the controlled 17 substances they were distributing or 18 shipping were not counterfeit?</p> <p>19 A. Rite Aid had a policy that 20 the receiver, which happened to -- 21 actually, the receiver was part of the 22 inbound department. They worked in the 23 control cage. They were required to have 24 a background check. So they technically</p>
<p style="text-align: right;">Page 39</p> <p>1 in 2003. I can't comment on what 2 procedures and procedures were in place 3 before I got there in 2003.</p> <p>4 Q. Starting in 2003 you were 5 the manager at Perryman?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. So from 2003 to 2014, 8 was it part of your job responsibilities 9 for that entire time period to make sure 10 Rite Aid had policies and procedures in 11 place?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. And it was also part 14 of your job responsibilities to ensure 15 that associates were being trained?</p> <p>16 A. Yes.</p> <p>17 Q. And also part of your job 18 responsibilities to be overseeing or 19 ensuring that these internal audits were 20 conducted?</p> <p>21 A. Yes.</p> <p>22 Q. Is there anyone else 23 affiliated with the Rite Aid Perryman 24 distribution center that had</p>	<p style="text-align: right;">Page 41</p> <p>1 were assigned to that position, but they 2 weren't assigned to the pharmacy 3 department. But all of the receivers 4 were trained to verify that any vendors 5 had the correct DEA number, that -- they 6 had -- they had ways of inspecting the 7 packaging to make sure that the verbiage 8 was correct, that they had a proper NDC 9 number and UPC number, that the dating 10 was correct, according to their packing 11 slip.</p> <p>12 Q. You also said that part of 13 the compliance work was ensuring that 14 product came from licensed DEA 15 registrants. What policies and 16 procedures did Rite Aid have in place to 17 ensure that it was complying with that 18 part of its obligations?</p> <p>19 MR. LAVELLE: Object to 20 form.</p> <p>21 THE WITNESS: Well, that was 22 part of their policy and 23 procedure, that you had to go 24 through a series of steps to</p>

<p style="text-align: right;">Page 42</p> <p>1 validate that the items were 2 coming from a DEA-approved vendor 3 and that -- I mean, we had 4 receiving -- standing operating 5 procedures, you know, an overview 6 on how to do it. But the 7 technical, exactly how to receive 8 it, you had to open up one case to 9 inspect each item from each case 10 to make sure that was correct and 11 dated properly. 12 I mean, there's series of 13 steps within each procedure that 14 they had to follow. 15 BY MR. CLUFF: 16 Q. Was there a written policy 17 and procedure document that they had to 18 follow? 19 A. They had an internal inbound 20 receiving document that explained to them 21 exactly how to receive a problem -- a 22 product, if there was any issues, that 23 they were supposed to call the pharmacy 24 buyer in corporate for anything that</p>	<p style="text-align: right;">Page 44</p> <p>1 first three or four days, all were 2 trained on how to properly use that 3 system, because an associate in pharmacy 4 could be sent to Region 1, for example, 5 for the day or for a few hours if they 6 were short staffed or something. 7 So they are all trained on 8 how to properly put out the lights, short 9 down product, and have you within a 10 three-day time period. 11 Q. What do you mean by short 12 down product? 13 A. Meaning if a picker went to 14 a slot and that particular tote asked for 15 ten and there was nothing stocked in the 16 ten and they -- after they went around to 17 the back, there was nothing there for 18 them and there was only eight, they would 19 short it down to eight and only send 20 eight to the store. So that the store 21 wouldn't be billed for more than what 22 they were getting. 23 Q. Were there ever instances 24 where an associate would go to pick a</p>
<p style="text-align: right;">Page 43</p> <p>1 might have been out of the ordinary as 2 far as not meeting the NDC number or if 3 the quantity that they shipped was 4 different than what was on the packing 5 list. So yeah, there was all that. 6 Q. You mentioned part of the 7 compliance work being that there was no 8 expired product? 9 A. Yes. 10 Q. That's just ensuring that 11 the product isn't past its use by date? 12 A. That's correct, or it's 13 within a certain date of shipping. We 14 never received anything that was short 15 dated more than six months because you 16 didn't know when it was going to go out 17 to the stores. 18 Q. You mentioned using correct 19 picking procedures. What policies and 20 procedures did Rite Aid have in place to 21 ensure correct picking procedures? 22 A. Well all of associates -- 23 the pick-to-light was uniform throughout 24 the whole building. So everybody, in the</p>	<p style="text-align: right;">Page 45</p> <p>1 product and determine that even though 2 there was inventory -- there was 3 sufficient inventory available, that they 4 still were not going to completely fill 5 an order? 6 MR. LAVELLE: Object to 7 form. 8 THE WITNESS: I don't know. 9 Again, the question -- are you 10 talking about building-wide or are 11 you talking about 12 pharmacy-specific or -- 13 BY MR. CLUFF: 14 Q. Pharmacy specific. 15 A. -- or control cage specific? 16 Q. Well, let's -- let's start 17 with pharmacy specific. And I'll -- I'll 18 give you a little more clear explanation 19 kind of using what you described. 20 A. Okay. 21 Q. So let's say an associate is 22 told go -- go pick Product X in the 23 amount of ten. 24 A. Right.</p>

<p style="text-align: right;">Page 46</p> <p>1 Q. And they get there and they 2 look at the order form and they say, 3 well, I can't fill that for ten, I have 4 to fill it for five, did that ever happen 5 in the pharmacy department? 6 A. While I was controlling the 7 pharmacy department, that would not 8 happen. First, the light would light for 9 a certain amount, and we were fortunate 10 during the time that we had -- we had our 11 own pharmacy stockers and drivers. And 12 that's what was good about it, as opposed 13 to the other part of the building, when I 14 said I was the replenishment manager, the 15 front-end departments didn't have unique 16 stockers and drivers. Pharmacy was the 17 only department in that whole building 18 that had it, that's why we had control 19 access into the whole pharmacy area in 20 general, that's legend, and then we had a 21 further access into the control cage. 22 So both places had their own 23 stockers and drivers to ensure that the 24 quality of the product being put in the</p>	<p style="text-align: right;">Page 48</p> <p>1 their proper paperwork. And attach a -- 2 what we called a load ID to that 3 particular item's pallet, whatever 4 quantity it is, could be a whole pallet, 5 a couple cases, what have you, and then 6 another associate would take that, scan 7 that load ID and the system would tell 8 that driver where to locate that product. 9 So the product would be put 10 away into the storage rack or it may go 11 straight to the floor to pick -- to pick, 12 for an associate to send to a store when 13 asked. 14 Q. When the -- the pickers in 15 the -- the control cage, when they 16 received an order did they -- or let me 17 ask you a foundational question. 18 Are you aware if Rite Aid 19 had thresholds for its stores related to 20 controlled substance products? 21 A. There were thresholds 22 established throughout certain items when 23 it got -- were sent out a certain 24 quantity, no more than.</p>
<p style="text-align: right;">Page 47</p> <p>1 slots was correct. And that means 2 inventory, dating and all that. 3 So getting back to your 4 question, if somebody wanted -- needed 5 ten and there was only five, our 6 department was controlled enough that we 7 had leads and managers that would go look 8 for that product. If it wasn't there, 9 we'd go to the storage location and pull 10 that product to satisfy the store's 11 needs. And only if there was none left 12 in pharmacy would we short it down. 13 Q. Okay. And let's talk about 14 the controls now. And I -- 15 A. It would have been the same 16 procedure for them. 17 Q. Let me ask you a question 18 then. 19 So what was the normal 20 procedure for receiving an order from a 21 store for controlled substances? 22 A. Again, the inbound receiving 23 clerk would receive the product. Write 24 down exactly what they had. Fill out</p>	<p style="text-align: right;">Page 49</p> <p>1 Q. What's your understanding of 2 a threshold? 3 A. Threshold is that an 4 order -- a store should not order more 5 than their established threshold. And we 6 would not send more than what the 7 established threshold was. 8 Q. Do you have an understanding 9 of how the thresholds that you've 10 described were set at Rite Aid? 11 A. I'm familiar with how it was 12 set. 13 Q. Can you describe how they 14 were set? 15 A. Janet Hart's team in 16 corporate would establish thresholds 17 based on sales of stores of certain 18 items. 19 Q. Did you have any 20 participation in the establishment of 21 thresholds? 22 A. No. 23 Q. How do you understand that 24 Janet Hart's team set the thresholds?</p>

<p style="text-align: right;">Page 50</p> <p>1 A. They would communicate that 2 to us. 3 Q. You said that thresholds 4 were established throughout certain items 5 and that that would result in only a 6 certain quantity being sent out, no more 7 than that. Is that -- is that your 8 understanding? 9 MR. LAVELLE: Object to 10 form. 11 THE WITNESS: Yes. 12 BY MR. CLUFF: 13 Q. When you say certain items, 14 are you referring to specific controlled 15 substances or some other products, do you 16 know? 17 A. I'm only talking about the 18 control items in the control cage. 19 Q. Okay. Previously we talked 20 about hydrocodone products. Were there 21 thresholds for hydrocodone products? 22 A. Yes. 23 Q. The pickers in the control 24 cage, did they have visibility into what</p>	<p style="text-align: right;">Page 52</p> <p>1 picked into, to go to different bays or 2 zones or slots. And as they scan the 3 tote's ID, now that tote ID belongs to a 4 store. So that store wants X amount of 5 quantity dependent on what locations 6 items are. 7 So an associate would walk 8 to a location and might have eight. So 9 they would put eight into the tote, 10 extinguish the -- the light, and go to 11 see if there's another location for that 12 store. 13 They might have only wanted 14 one item. They might want a couple 15 items. So they would go or push that 16 tote to the next zone to satisfy that 17 order. 18 We have another associate, 19 what we call the paperwork person, that 20 would print all the pick list IDs, what 21 we call green bar, which lists on 22 hardcopy all of the items that the store 23 ordered for that order. They would match 24 that item numbers and tote number with</p>
<p style="text-align: right;">Page 51</p> <p>1 the thresholds were for the hydrocodone 2 products? 3 A. We had posted certain items 4 that stores habitually ordered a lot. 5 They would be posted throughout the 6 picking area for them not to exceed and 7 to report any excess -- any orders that 8 were above that amount to a lead or a 9 manager. 10 Q. So if you can help me walk 11 through the process. Let's -- let's go 12 back to the order picker in the control 13 cage. 14 So they receive a list of 15 items that they should be picking, 16 correct? 17 A. No. 18 Q. No. Okay. How does it work 19 for them then? 20 A. We had different people 21 doing different things. 22 Q. Okay. 23 A. You had pickers that would 24 pull a tote, which the items would be</p>	<p style="text-align: right;">Page 53</p> <p>1 the tote, and put that into the tote. 2 And it would also print a shipping label 3 to be placed on the lid of the tote after 4 matching the tote ID so that the 5 store's -- correct store was put on the 6 tote ID, matched the tote ID number, the 7 pick list that was supposed to -- that 8 matched the product that was in the tote 9 was in the tote, and then once the 10 picking was done, that tote would be 11 100 percent audited at one of our 12 auditing tables. Each and every tote in 13 the control cage was 100 percent audited. 14 Q. So it sounds like there 15 maybe are two stages in the packing 16 process. The first is with the 17 associates that are actually taking the 18 totes and filling them using the 19 pack-light system, correct? 20 MR. LAVELLE: Object to 21 form. 22 THE WITNESS: Yes. 23 BY MR. CLUFF: 24 Q. Okay. So those associates</p>

<p style="text-align: right;">Page 54</p> <p>1 that are -- are filling totes using the 2 pack-light system, they don't have a list 3 of what items are being ordered for that 4 tote?</p> <p>5 MR. LAVELLE: Object to 6 form.</p> <p>7 THE WITNESS: No. They 8 have, throughout the -- the 9 department we have a threshold of 10 no more than 5,000 units go to -- 11 pills or units go to any 12 particular store. So if they went 13 to a location and let's say it had 14 bottles of 500 pills in it, and 15 the thing lit up. I don't know, 16 let's try to do the math. 500, 17 that would be 10. If it's like 18 11, they would not send -- put 11 19 in the tote. They would only put 20 10.</p> <p>21 BY MR. CLUFF: 22 Q. Okay. I see you understand 23 kind of where I'm heading, kind of 24 understand what the -- the process is.</p>	<p style="text-align: right;">Page 56</p> <p>1 sure, to avoid any mispicking even though 2 we did 100 percent audit, that an item 3 would be located that's not side by side. 4 In other words, you would not have a 5 package of 500-pill bottles next to a 6 package of 100-pill bottles, because if 7 somebody looked at the light, they could 8 mispick it and grab this by -- this many 9 by mistake, whatever. We purposely 10 separated them so those kind of errors 11 wouldn't happen.</p> <p>12 So then once that happened, 13 it goes to our audit table and then they 14 show everything that the store was 15 supposed to have ordered and what was 16 actually picked in the tote. And 17 sometimes those were incorrect as well. 18 The store might have wanted only eight, 19 but the light might have lit up seven or 20 something. So they would have to have 21 one more added to it. But we'd call the 22 stores first. Or if it lit up, they only 23 wanted 9, it could have loaded up 10. 24 The order sheet would say whether it was</p>
<p style="text-align: right;">Page 55</p> <p>1 So a tote picker would go to 2 a part of the store where the light lit 3 up, and let's say that light was for 4 hydrocodone products. And we'll use your 5 example of a 500-pill bottle. And let's 6 say the request was for 11, as you 7 suggested.</p> <p>8 How would the -- the Rite 9 Aid associate who was filling the tote 10 know not to fill for more than 5,000 11 units?</p> <p>12 MR. LAVELLE: Object to 13 form.</p> <p>14 THE WITNESS: Because that 15 would be -- that would be the 16 threshold.</p> <p>17 BY MR. CLUFF: 18 Q. Okay. How did the associate 19 know that that was the threshold? 20 A. Because we had them 21 typewritten, no more than 10 of 500 22 bottles, no more of five, 100 bottles. 23 Because different items come in different 24 packaging at different times. So we made</p>	<p style="text-align: right;">Page 57</p> <p>1 9 and we'd put the product back. 2 And then any associate that 3 made an error got a corrective action.</p> <p>4 Q. I want to stay with this 5 like, first phase which is the tote, the 6 tote filling --</p> <p>7 A. Okay.</p> <p>8 Q. -- the picking to fill the 9 totes.</p> <p>10 A. Mm-hmm.</p> <p>11 Q. I asked how the -- the 12 associates knew that there was a 13 5,000-unit threshold. And you said that 14 we have them typewritten?</p> <p>15 A. Yes.</p> <p>16 Q. Earlier you mentioned that 17 there was something posted in the control 18 cage. Is the typewritten thing you 19 mentioned the same as the thing you 20 mentioned that was posted?</p> <p>21 MR. LAVELLE: Object to 22 form.</p> <p>23 THE WITNESS: No. Because I 24 think --</p>

<p style="text-align: right;">Page 58</p> <p>1 BY MR. CLUFF:</p> <p>2 Q. Hold on, let's -- let's --</p> <p>3 let's do it so I don't lose track. What</p> <p>4 is the typewritten information that you</p> <p>5 were talking about?</p> <p>6 A. The item, the threshold</p> <p>7 items were typewritten and posted for the</p> <p>8 number of items that we had. And they</p> <p>9 were -- the font was like 36-inch font --</p> <p>10 font, posted in the control cage, for</p> <p>11 certain stores could only get this amount</p> <p>12 or might be able to get this amount.</p> <p>13 The typewritten list that</p> <p>14 I'm referring to is called a pick list ID</p> <p>15 which is downloaded automatically through</p> <p>16 the order system which shows everything</p> <p>17 that a store ordered, and then when we</p> <p>18 did a tote audit, when we would count how</p> <p>19 many items, we'd indicate individually</p> <p>20 how many items the store was actually</p> <p>21 getting into that tote.</p> <p>22 Q. Okay. So there was --</p> <p>23 A. That stayed -- that stayed</p> <p>24 with the tote to the store, so when the</p>	<p style="text-align: right;">Page 60</p> <p>1 are talking about hydrocodone products,</p> <p>2 that would have been included on this</p> <p>3 posted document?</p> <p>4 A. If they had a threshold</p> <p>5 established, yes.</p> <p>6 Q. Do you know if there was a</p> <p>7 threshold for hydrocodone products?</p> <p>8 A. I don't remember.</p> <p>9 Q. Do you remember which</p> <p>10 products were subject to a 5,000 unit</p> <p>11 threshold?</p> <p>12 A. All the products in here</p> <p>13 except pseudoephedrine. They were only</p> <p>14 24.</p> <p>15 Q. So all product in the</p> <p>16 control cages were subject to a</p> <p>17 5,000-unit threshold?</p> <p>18 A. No more than 5,000 units.</p> <p>19 Q. So as a pick -- as a picking</p> <p>20 associate who would fill the totes went</p> <p>21 through, if they saw that a store's pick</p> <p>22 list ID called for an order that would</p> <p>23 exceed the 5,000-unit threshold, what</p> <p>24 happened?</p>
<p style="text-align: right;">Page 59</p> <p>1 pharmacist got it or whoever checked in</p> <p>2 that tote at the store would have that</p> <p>3 packing list to verify exactly what we</p> <p>4 said we sent them they were getting.</p> <p>5 Q. So there was a pick list ID</p> <p>6 that moved with the tote --</p> <p>7 A. Correct.</p> <p>8 Q. -- as it was filled?</p> <p>9 A. Yes.</p> <p>10 Q. Understood.</p> <p>11 MR. LAVELLE: Please wait</p> <p>12 until the question is finished</p> <p>13 before you answer.</p> <p>14 THE WITNESS: Thank you.</p> <p>15 BY MR. CLUFF:</p> <p>16 Q. Okay. And then there was</p> <p>17 also a posted document that you said for</p> <p>18 the products that -- the thresholds that</p> <p>19 explained what the thresholds were?</p> <p>20 A. Yes.</p> <p>21 Q. Am I understanding that</p> <p>22 correctly?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. So for example, if we</p>	<p style="text-align: right;">Page 61</p> <p>1 A. They, one, would not send</p> <p>2 them. They would short it to an amount</p> <p>3 below that. They would let either a lead</p> <p>4 or an assistant manager know that the</p> <p>5 store exceeded the amount allowed. And</p> <p>6 then that lead or assistant manager would</p> <p>7 place a phone call to the store -- we</p> <p>8 used a phone log -- to mention to the</p> <p>9 store, "Do you realize that you ordered</p> <p>10 this," or whatever the conversation was.</p> <p>11 But they were only going to get the</p> <p>12 allowable amount.</p> <p>13 Q. So when the picking</p> <p>14 associate is going through filling the</p> <p>15 tote, how would he or she know that an</p> <p>16 order that they were looking at was going</p> <p>17 to go over this 5,000-unit threshold?</p> <p>18 A. Well, they use math, like</p> <p>19 the rest of us. I mean, if you're only</p> <p>20 allowed 5,000 and you have a package of</p> <p>21 five bottles, you're not going to send</p> <p>22 more than ten -- if the light lights up</p> <p>23 at 11, you're only going to send ten.</p> <p>24 The --</p>

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1 Q. Sorry. I didn't mean to
2 interrupt you. Go ahead.
3 The 5,000-unit threshold,
4 was that per week or per month? Do you
5 know?
6 A. I believe it was for per
7 order.
8 Q. What would happen if a store
9 had two orders during a one-week period
10 that were both for the max of 5,000
11 units?
12 A. Corporate would have had to
13 approve that order to -- that store to do
14 another order, or the point of sale in
15 the store might have been that they've
16 sold that based on the scripts.
17 Q. And would that -- would that
18 order then have then been approved and
19 shipped?
20 MR. LAVELLE: Object to
21 form.
22 THE WITNESS: The only
23 orders approved would have been if
24 corporate allowed it for them to

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1 order a second -- second amount.
2 BY MR. CLUFF:
3 Q. You say if the picking
4 associates saw an order that was over the
5 5,000-unit number they would have shorted
6 that order; is that correct?
7 A. Yes.
8 Q. And then they would have
9 informed their lead or assistant manager
10 of the over-order, essentially?
11 A. Yes.
12 Q. Do you know who the
13 people -- those leads or assistant
14 managers would have been between 2003 and
15 2014?
16 MR. LAVELLE: Object to
17 form.
18 THE WITNESS: You mean, like
19 names?
20 BY MR. CLUFF:
21 Q. Yeah.
22 A. I could come up -- I could
23 remember some names, not all names.
24 Q. Do you remember -- which

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1 names do you remember?
2 A. Marian Wood.
3 Q. Anybody else?
4 A. Kim Brown, Linda Stewart,
5 Debra Chase. That's all I can recall
6 right now. A lot of them left the
7 company since that time.
8 Q. You said that when those
9 leads, those assistant managers received
10 a report of an order that went over the
11 5,000 units, they would -- they would
12 call the store; is that accurate?
13 A. They would attempt to call
14 the store to verify their order, let them
15 know that their order exceeded it and
16 they were only going to get a certain
17 amount.
18 Q. What was the purpose of that
19 phone call to the store?
20 A. Well, so that the store knew
21 that they were only getting a certain
22 amount, that the order exceeded what the
23 authorized amount was to send to them,
24 and that -- we would let corporate know

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1 that they exceeded that amount.
2 And sometimes the stores
3 might have a new tech or something like
4 that, they could have mis-ordered it in
5 the first place. But let the pharmacist
6 know if someone might have -- someone
7 might have made a mistake.
8 Q. You mentioned that you would
9 let corporate know that the store
10 exceeded that amount. Is that a
11 different phone call than the call to the
12 store?
13 A. Yes. Because if a store,
14 when we called the resolution, and they
15 said, oh, well we meant to say eight and
16 we said 18, we wouldn't use that call to
17 corporate on it. But if the store
18 constantly made the same mistake over and
19 over, it may indicate maybe they weren't
20 trained or something like that. So we
21 wanted to make sure corporate would know.
22 Q. That was essentially a
23 quality control call to corporate to let
24 them know how the store was performing?

<p style="text-align: right;">Page 66</p> <p>1 MR. LAVELLE: Object to 2 form. 3 THE WITNESS: Yes. 4 BY MR. CLUFF: 5 Q. What if an order came in at 6 the end of the day while a pharmacy or 7 store was closed, would you call that 8 store or how would you deal with that? 9 MR. LAVELLE: Object to 10 form. 11 THE WITNESS: What do you 12 mean come in at the end of the day 13 when the store is closed? We had 14 a day shift and a night shift. So 15 the orders are point of sale. 16 They come down through the system. 17 Night shift picks them. And we 18 pick them during days. That 19 wouldn't coincide with a pharmacy 20 being closed or anything. 21 If we couldn't get ahold of 22 the store, we would set that aside 23 and let the day shift DEA 24 coordinator or manager attempt to</p>	<p style="text-align: right;">Page 68</p> <p>1 humidifier monitoring machines throughout 2 the whole pharmacy and control cage area. 3 Q. How about security? Were 4 you responsible for physical security of 5 the products at the Perryman center? 6 MR. LAVELLE: Object to 7 form. 8 THE WITNESS: I was 9 responsible to make sure that we 10 had the correct facility -- 11 security items in place. The 12 engineer make sure that the 13 control cage was built to standard 14 and the DEA approved everything 15 that we have in the facility. 16 BY MR. CLUFF: 17 Q. One more follow-up for you 18 about the thresholds and the calls that 19 were placed about order changes. You 20 mentioned that there would be calls to 21 corporate to let them know how a store 22 was ordering. Do you recall that? 23 A. Yes. 24 Q. Do you know if there are any</p>
<p style="text-align: right;">Page 67</p> <p>1 call the store if the store was 2 not open. 3 BY MR. CLUFF: 4 Q. Going back to the overall 5 compliance duties that you discussed 6 earlier. You mentioned ensuring that all 7 of the products at the distribution 8 center were stored properly. Do you 9 recall that? 10 A. Yes. 11 Q. What responsibility did you 12 have for ensuring that Rite Aid's 13 products at Perryman were stored 14 properly? 15 A. Temperature controlled 16 environment. The whole pharmacy 17 department was temperature controlled, 18 sort of like an air conditioner. They 19 all had to be stored in required 20 temperatures, 77 degrees, and that their 21 humidity was at such a level that was 22 acceptable throughout the summer months 23 and throughout the year. And we had 24 numerous temperature recording and</p>	<p style="text-align: right;">Page 69</p> <p>1 records or summaries of those phone 2 calls? 3 A. We have records of what we 4 call the phone control log, where if an 5 associate thought the order was incorrect 6 for the store, that we'd write down the 7 store number, the quantity of the order, 8 and that we would call an associate who 9 we talked to, and a resolution. 10 Very rarely did we ever have 11 to -- and I don't even know if we ever 12 had to call corporate on a store going 13 out of pattern or ordering constantly 14 more than they were supposed to. But 15 that was a procedure in place. 16 Q. So this -- did you say full 17 control log or phone control log? 18 A. Phone. 19 MR. CLUFF: If we can get 20 that cleaned up on the record 21 after. Okay. Thanks. 22 BY MR. CLUFF: 23 Q. So this phone control log, 24 that would be a record of the calls, for</p>

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1 example, to the stores when they went
2 over the 5,000-unit number?
3 A. Or it could be below that
4 they normally ordered. Some stores were
5 weekly deliveries. Some were biweekly.
6 And these associates, very few -- hardly
7 any turnover. So they knew stores that
8 we -- whether it was from West Virginia
9 whatever, certain patterns that the
10 stores always ordered this or that.
11 So if they were a biweekly
12 store and they ordered less than what
13 they normally order, we'd put that in
14 there and call them as well too to make
15 sure, "Hey, you ordered 13. You ordered
16 15. Is this a correct order?"
17 So there was a familiarity
18 with us and the store relationship
19 developing.
20 Q. And the people who were
21 making those calls, that was the leads
22 and managers, correct?
23 A. Yes.
24 Q. And so there's a log of all

Page 71

1 of those phone calls that occurred?
2 A. There are numerous logs
3 throughout the years of those phone
4 calls.
5 Q. So I was asking about the
6 calls to corporate about the stores to
7 see if there was a log of those calls
8 separate from this phone call log that
9 you just described.
10 Is there one?
11 MR. LAVELLE: Object to
12 form.
13 THE WITNESS: I don't recall
14 if there was a log for that or
15 not. I think we would -- Marian
16 or somebody closer to it would
17 call corporate if we noticed that
18 a store ordered more than they
19 were supposed to. And the store
20 would have -- might have responded
21 to Marian or whoever called, well,
22 we need this because of the sales.
23 Marian might have called Janet
24 Hart and said hey, this store said

Page 72

1 that this quantity is not enough,
2 and then it would be up to Janet
3 Hart to make -- or her group to
4 determine whether, well, based on
5 sales maybe it should be increased
6 or no, it's not.
7 But they were the approval
8 authority for any kind of
9 thresholds or amounts shipped to
10 the stores.
11 BY MR. CLUFF:
12 Q. You said based on sales
13 maybe it should be increased or no. When
14 you say sales, do you mean the amount of
15 drugs that a Rite Aid store was
16 dispensing?
17 A. Based on the sales of how
18 many scripts the stores had, I guess at
19 that time for what they were -- the
20 patients they had. I mean I don't know
21 what all the metrics that Janet Hart and
22 them used for that. I only know it's
23 based on point of sales that the store
24 was using.

Page 73

1 Q. So your understanding is
2 that -- that sales information was used
3 to understand whether a threshold should
4 be increased?
5 MR. LAVELLE: Object to
6 form.
7 THE WITNESS: As I
8 understand it, it might have been
9 part of it.
10 BY MR. CLUFF:
11 Q. You -- you mentioned that
12 you almost never called corporate about a
13 store that was ordering over its
14 threshold, was that -- did I get that
15 right?
16 MR. LAVELLE: Object to
17 form.
18 THE WITNESS: I can't recall
19 a store -- I mean corporate being
20 called for that reason.
21 BY MR. CLUFF:
22 Q. Do you recall corporate
23 being called for any other reason?
24 MR. LAVELLE: Object to

Page 74

1 form.
2 THE WITNESS: I don't
3 recall. Again, I'm not physically
4 working in the control cage
5 24 hours. Those are the people
6 that work there, the assistant
7 managers and the leads, and the
8 DEA coordinator.
9 BY MR. CLUFF:
10 Q. So if we wanted to talk to
11 somebody about how often corporate was
12 called, it would be the leads or the
13 managers who were working in the cage?
14 A. Or the DEA coordinator,
15 correct.
16 Q. Are you aware if corporate
17 ever took action on a store that was
18 consistently ordering above its
19 threshold?
20 A. I'm not aware of that.
21 Q. Are you aware if corporate
22 ever took any action on a store that was
23 ordering consistently under its
24 threshold?

Page 75

1 A. Again, not being corporate,
2 I don't know, I'm not aware of what they
3 did or did not do.
4 Q. And you were -- when you
5 refer to corporate, is there a person
6 you're referring to at corporate who
7 would have been aware of that
8 information?
9 A. Janet Hart.
10 Q. Anybody else?
11 A. No, that I'm aware of.
12 Q. Okay. I want to go back to
13 the storage issues we were talking about.
14 We've been going about an hour. I
15 propose that we talk about this physical
16 security stuff for a second, and then we
17 can take a break, if that's all right
18 with you?
19 A. I'm fine.
20 Q. So going back to the
21 physical security. You talked about
22 the -- the cages and making sure they
23 were built to the DEA's specs, do you
24 recall that?

Page 76

1 A. Yes.
2 Q. Okay. Were you in charge of
3 ensuring that the -- the cage
4 construction complied with DEA
5 regulations?
6 A. I was a manager in charge
7 that the DEA would only approve certain
8 cage construction. The industrial
9 engineer on site would have been the
10 person that contracted the people to
11 build the cage to the DEA specifications,
12 and then DEA would come out, which they
13 did when we expanded the cage, to ensure
14 that it met their compliance. The -- the
15 metal gauge on the fence, and that they
16 were close, and all of that.
17 Q. So the -- the engineer would
18 have been responsible for building the
19 cage as -- as you stated, correct?
20 A. He would have been
21 responsible for hiring the contractors to
22 build the cage to the specifications to
23 DEA, correct.
24 Q. Are you aware that in

Page 77

1 order -- do you have any understanding
2 about whether or not Rite Aid was
3 required to obtain a registration from
4 the DEA to distribute controlled
5 substances?
6 MR. LAVELLE: Object to
7 form.
8 THE WITNESS: Yes, we always
9 have had that.
10 BY MR. CLUFF:
11 Q. Are you aware whether Rite
12 Aid as a registrant was required to
13 provide effective controls against
14 diversion?
15 A. Yes. We always had
16 effective controls against diversion.
17 Q. What's your understanding of
18 what diversion is?
19 A. Diversion is any theft,
20 misappropriation, misuse of any pharmacy
21 items, which includes control drugs.
22 Not in -- we had procedures, a lot of
23 procedures in place to make sure that
24 didn't happen. We had SOPs where each

<p style="text-align: right;">Page 78</p> <p>1 associate taking out the trash had to 2 have a lead or a manager inspect for any 3 loose bottles that might have fallen into 4 the trash or got caught up in the -- in 5 the plastic before throwing it away on 6 the conveyor line. Any instances of 7 bottles on -- on the floor, we reported 8 that to the leads and managers. Because 9 humans being humans, you pick something 10 up and drop it and then continue and not 11 really realize that you dropped it, or 12 what have you.</p> <p>13 And we were real good at 14 that, because we, at the end of every 15 day, which we -- there's no requirement 16 anywhere, for both shifts, did a forward 17 pick inventory for everything. And we 18 weren't really -- we're not required to 19 do it. There's nothing in the federal 20 regulations for that. They don't require 21 biennial inventory or a annual inventory. 22 We did it daily, the forward picks.</p> <p>23 Q. What's a forward pick 24 inventory?</p>	<p style="text-align: right;">Page 80</p> <p>1 That includes the shipping 2 department as well. I mean, you 3 ship it, that's why I said when I 4 was in charge of the outbound 5 department, we were only delivered 6 control drugs, and it's strapped, 7 tote-tied, red totes to the 8 outbound shipping areas whether it 9 was to a crosswalk DC or to our 10 local stores, in an approved cage 11 that only trained associates, in 12 those cages in the outbound 13 department, would sign those totes 14 out to the truck right before it 15 was ready to depart for the 16 stores.</p> <p>17 BY MR. CLUFF: 18 Q. Are you aware of what a 19 suspicious order is? 20 A. Yes. 21 Q. What's your understanding of 22 the term "suspicious order"? 23 A. Suspicious order would have 24 been, in my estimation, a gross amount of</p>
<p style="text-align: right;">Page 79</p> <p>1 A. I mean if we go back to what 2 I explained to you what a forward pick 3 was, that's what the -- where the product 4 is, where the associates pick the product 5 out of the boxes and put in the totes. 6 Well, forward pick inventory is we 7 inventory every one of those pick slots 8 at the end of each shift to make sure 9 that it matches up, the system inventory 10 for it.</p> <p>11 Then monthly we did storage 12 inventories as well.</p> <p>13 Q. When I asked you what your 14 understanding of diversion is, you said 15 that it was any theft, misappropriation, 16 misuse of any pharmacy items including 17 drugs.</p> <p>18 Are you aware of any other 19 kind of diversion that Rite Aid was 20 required to prevent? 21 MR. LAVELLE: Object to 22 form. 23 THE WITNESS: Well, 24 over-ordering, excessive orders.</p>	<p style="text-align: right;">Page 81</p> <p>1 orders that the store, through -- break 2 its pattern, ordered more than it 3 normally does, a large amount above it, 4 or it could be less than, as far as that 5 goes as well. And it does not -- it's 6 just not in sync of what a normal store 7 would have -- would do when they place an 8 order.</p> <p>9 Q. During your time as a 10 manager from 2003 to 2014, are you aware 11 of any suspicious orders being reported 12 by Rite Aid to the DEA? 13 A. No, I'm not aware -- aware 14 of any of that. 15 Q. Is that because it never 16 occurred? 17 MR. LAVELLE: Object to 18 form. 19 THE WITNESS: From my -- 20 from my distribution center it 21 never occurred. 22 BY MR. CLUFF: 23 Q. And when you say from your 24 distribution center it never occurred, do</p>

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1 you mean that your distribution center
2 never reported a suspicious order to the
3 DEA?
4 A. Yes.
5 Q. Are you aware of any
6 investigations of potentially suspicious
7 orders during the time period you were
8 the manager at Perryman between 2003 and
9 2014?
10 MR. LAVELLE: Object to
11 form.
12 THE WITNESS: Are you
13 referring to investigations of the
14 Perryman distribution center?
15 BY MR. CLUFF:
16 Q. No. My question was a
17 little more specific.
18 So are you aware, at
19 Perryman, if there was ever an
20 investigation about a potentially
21 suspicious order between 2003 and 2014?
22 MR. LAVELLE: Object to
23 form.
24 THE WITNESS: No, I'm not

Page 83

1 aware of that.
2 BY MR. CLUFF:
3 Q. Is that because no
4 investigations were ever conducted?
5 MR. LAVELLE: Object to
6 form.
7 THE WITNESS: I'm not aware
8 of any investigation.
9 BY MR. CLUFF:
10 Q. You used the term earlier
11 "excessive ordering." What does that
12 term mean to you?
13 A. Excessive ordering means
14 that a store is ordering a quantity that
15 they are not allowed to on a consistent
16 pattern over and over again. And that
17 looks suspicious, that it's not in their
18 character based on our dealings with
19 them.
20 Q. So excessive ordering in
21 your opinion looked suspicious?
22 MR. LAVELLE: Object to
23 form.
24 THE WITNESS: What -- what's

Page 84

1 the question? Excessive ordering
2 looks suspicious, is that what the
3 question is?
4 BY MR. CLUFF:
5 Q. Yeah. Here is what you
6 said: You said excessive ordering means
7 that a store is ordering a quantity that
8 they are not allowed to on a consistent
9 basis, and it looks suspicious.
10 So my question is, to just
11 understand your answer that, that to you,
12 excessive ordering looked suspicious?
13 MR. LAVELLE: Object to
14 form.
15 THE WITNESS: Well, I hope
16 we're not getting confused with
17 above the threshold. Because a
18 store may order above threshold,
19 but that doesn't mean that it's,
20 in my opinion, a suspicious order.
21 It could be just a mistake.
22 BY MR. CLUFF:
23 Q. Yeah, is that -- I'm sorry,
24 I didn't mean to talk over you.

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1 That -- that was not my
2 question. My question was really just
3 based on -- on the answer you just gave,
4 which is that excessive ordering was a
5 pattern of a store consistently ordering
6 more than that it was allowed to, and
7 then I believe you said that that looks
8 suspicious. So is it --
9 A. It -- it could be
10 suspicious --
11 MR. LAVELLE: Object to
12 form. Wait till the question is
13 finished before you answer it,
14 sir.
15 BY MR. CLUFF:
16 Q. And always make sure you
17 give your counsel an opportunity to
18 object.
19 But to go back to this
20 question that I had earlier about
21 excessive ordering.
22 A. Mm-hmm.
23 Q. I asked you, you know, what
24 your understanding of excessive ordering

<p style="text-align: right;">Page 86</p> <p>1 was. Do you recall that?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And then we were</p> <p>4 looking -- I was looking at your answer</p> <p>5 on realtime. We have a feed of the</p> <p>6 transcript that comes out, so I was kind</p> <p>7 of looking at what was transcribed of</p> <p>8 your answer.</p> <p>9 And you said that excessive</p> <p>10 ordering was a store ordering over the</p> <p>11 quantity consistently that they are</p> <p>12 allowed to. Is that how you understood</p> <p>13 excessive ordering patterns?</p> <p>14 MR. LAVELLE: Object to</p> <p>15 form.</p> <p>16 THE WITNESS: Yes.</p> <p>17 BY MR. CLUFF:</p> <p>18 Q. And to you, was an excessive</p> <p>19 ordering pattern, was that suspicious?</p> <p>20 MR. LAVELLE: Object to</p> <p>21 form.</p> <p>22 THE WITNESS: What -- what</p> <p>23 is the question, to me an</p> <p>24 excessive ordering is suspicious,</p>	<p style="text-align: right;">Page 88</p> <p>1 pick list IDs, all of our postings, our</p> <p>2 control logs, how we audited 100 percent</p> <p>3 of our totes. And they were very, very</p> <p>4 happy with the way we had our controls in</p> <p>5 place, and they wished other places did</p> <p>6 the same thing we did.</p> <p>7 And they didn't see -- we</p> <p>8 showed them the phone logs. They said</p> <p>9 you know, this is fine, you're keeping</p> <p>10 track of anything. And nothing looked</p> <p>11 out of place to them. That was the</p> <p>12 second of four audits they had of our</p> <p>13 facility.</p> <p>14 Q. When that DEA audit</p> <p>15 occurred, did you tell them that you had</p> <p>16 never reported a suspicious order from</p> <p>17 the Perryman center?</p> <p>18 A. I don't recall that.</p> <p>19 MR. CLUFF: Let's take a</p> <p>20 little bit of a break.</p> <p>21 THE WITNESS: Sure.</p> <p>22 MR. CLUFF: Maybe just five,</p> <p>23 ten minutes.</p> <p>24 THE VIDEOGRAPHER: Off the</p>
<p style="text-align: right;">Page 87</p> <p>1 is that what you said?</p> <p>2 BY MR. CLUFF:</p> <p>3 Q. An excessive ordering</p> <p>4 pattern in your experience as a manager</p> <p>5 from 2003 to 2014, did you believe that</p> <p>6 was suspicious?</p> <p>7 MR. LAVELLE: Object to</p> <p>8 form.</p> <p>9 THE WITNESS: Well, we</p> <p>10 didn't have an instance, what you</p> <p>11 just said.</p> <p>12 BY MR. CLUFF:</p> <p>13 Q. What do you mean you didn't</p> <p>14 have that instance?</p> <p>15 A. You said as a manager, based</p> <p>16 on my experience, would excessive</p> <p>17 ordering be suspicious. Well, we didn't</p> <p>18 have that pattern of excessive ordering.</p> <p>19 And as a matter of fact, when we had the</p> <p>20 DEA audit back in 2012, they were real</p> <p>21 happy with our excessive ordering</p> <p>22 monitoring system. They walked through</p> <p>23 the whole cage because they spent all day</p> <p>24 there looking at how we picked all of our</p>	<p style="text-align: right;">Page 89</p> <p>1 record, 10:39 a.m.</p> <p>2 (Short break.)</p> <p>3 THE VIDEOGRAPHER: We are</p> <p>4 back on the record at 10:59 a.m.</p> <p>5 BY MR. CLUFF:</p> <p>6 Q. Okay. Mr. Frost, we're back</p> <p>7 on the record, so you are under oath</p> <p>8 again.</p> <p>9 Before we broke we were</p> <p>10 talking about excessive ordering</p> <p>11 patterns. Do you recall that?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And you talked about</p> <p>14 there were these, what you referred to as</p> <p>15 phone call logs about orders from Rite</p> <p>16 Aid stores that were -- were over the</p> <p>17 5,000-unit mark. Do you recall that?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know if those --</p> <p>20 those call logs were also referred to as</p> <p>21 above average order call logs?</p> <p>22 A. No. I don't know if they</p> <p>23 were referred to that at all, like that.</p> <p>24 Q. Were they ever referred to</p>

Page 94

[REDACTED]

Page 96

[REDACTED]

Page 95

[REDACTED]

Page 97

[REDACTED]

Page 98

[REDACTED]

Page 100

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Page 99

[REDACTED]

Page 101

[REDACTED]

Page 102

[REDACTED]

Page 104

[REDACTED]

Page 103

[REDACTED]

Page 105

[REDACTED]

Page 106

Page 108

Page 107

Page 109

Row	Bar Length (approx. % of total width)
1	10
2	85
3	80
4	90
5	25
6	35
7	75
8	30
9	90
10	35
11	95
12	95
13	100
14	95
15	25
16	85
17	95
18	70
19	90
20	10
21	35
22	80
23	80
24	90
25	40

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Page 114

[REDACTED]

Page 116

[REDACTED]

Page 115

[REDACTED]

Page 117

[REDACTED]

Page 118

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Page 120

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Page 119

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Page 121

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Page 122

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Page 124

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Page 123

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Page 125

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Page 126

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Page 128

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Page 127

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Page 129

[REDACTED]

Page 130

[REDACTED]

Page 132

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Page 131

[REDACTED]

Page 133

[REDACTED]

Page 134

Page 136

Page 135

Page 137

Page 138

Page 140

[illegible]

Page 139

Page 141

Row	Bar Length (approx. %)
1	80
2	90
3	65
4	80
5	75
6	40
7	80
8	95
9	45
10	70
11	90
12	65
13	85
14	30
15	85
16	45
17	55
18	80
19	90
20	75
21	85
22	25
23	80

Page 142

[REDACTED]

Page 144

[REDACTED]

Page 143

[REDACTED]

Page 145

[REDACTED]

Page 146

[REDACTED]

Page 148

[REDACTED]

Page 147

[REDACTED]

Page 149

[REDACTED]

Page 150

[REDACTED]

Page 152

[REDACTED]

Page 151

1 Q. I want to talk about some
2 policies and procedures now. You can set
3 that to the side. I'll hand you a
4 document that we're going to mark as
5 Exhibit 2.
6 (Document marked for
7 identification as Exhibit
8 Rite Aid-Frost-2.)
9 BY MR. CLUFF:
10 Q. It's a Rite Aid produced
11 document. It's been marked as Rite
12 Aid -- Rite_Aid_OMDL_0013210, which is an
13 e-mail that has an attachment. I've
14 included the attachment with the
15 document.
16 The attachment begins at the
17 same prefix ending in 0013211 through
18 0013230.

[REDACTED]

Page 153

[REDACTED]

Page 154

[REDACTED]

Page 156

[REDACTED]

Page 155

[REDACTED]

Page 157

[REDACTED]

Page 158

[REDACTED]

Page 160

[REDACTED]

Page 159

[REDACTED]

Page 161

[REDACTED]

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Page 164

Age Group	Should Take Action (%)	Should Not Take Action (%)
18-29	95	5
30-49	95	5
50-69	95	5
70+	95	5

A horizontal bar chart consisting of 20 rows. Each row contains a single black bar. The bars are arranged in a descending staircase pattern from top-left to bottom-right. The first bar is the longest, and each subsequent bar is shorter than the one above it, with the final bar being the shortest. The bars are positioned at regular intervals along the vertical axis.

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Page 165

[illegible]

Row	Bar Length (approx. %)
1	85
2	40
3	88
4	92
5	80
6	20
7	78
8	15
9	85
10	40
11	80
12	95
13	78
14	35
15	75
16	15
17	88
18	25
19	40
20	80
21	75
22	92
23	85
24	78
25	45

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[REDACTED]

Page 168

[REDACTED]

Page 167

[REDACTED]

Page 169

[REDACTED]

Page 170

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 Q. Did you ever interact with
15 anybody from Cardinal Health when you
16 were the manager at the Perryman
17 distribution center between 2003 and
18 2014?
19 A. No.
20 Q. You previously mentioned
21 McKesson. Did you ever interact with
22 anybody from McKesson between 2003 to
23 2014?
24 A. Just the on-site

Page 171

1 representative.
2 Q. Do you recall who that would
3 have been?
4 A. It was Todd. I don't know
5 what his last name is.
6 Q. Was there somebody at the
7 Perryman distribution center whose
8 responsibility it was to interact with
9 the McKesson employee?
10 A. Well, the receiving
11 department.
12 Q. But you don't recall who the
13 manager of that department was?
14 MR. LAVELLE: Objection.
15 Asked and answered.
16 THE WITNESS: We had
17 multiple managers. No one in
18 particular. It was just he was on
19 the floor while they were
20 receiving McKesson product.
21 BY MR. CLUFF:
22 Q. Did you ever interact with
23 anybody from AmerisourceBergen between
24 2003 and 2014?

Page 172

1 A. I don't remember anything
2 from AmerisourceBergen between 2003 and
3 2014.
4 Q. Do you recall interacting
5 with any other wholesale distributors
6 between 2003 and 2014?
7 A. No, I do not.
8 Q. You can set that document
9 aside.
10 MR. LAVELLE: Counsel, can
11 we take a break?
12 MR. CLUFF: Yeah.
13 THE VIDEOGRAPHER: Off the
14 record at 12:09 p.m.
15 - - -
16 (Lunch break.)
17 - - -
18 AFTERNOON SESSION
19 - - -
20 THE VIDEOGRAPHER: We are
21 back on the record at 12:46 p.m.
22 BY MR. CLUFF:
23 Q. Okay. Welcome back from
24 lunch, Mr. Frost. We're back on the

Page 173

1 record. So you're -- you're under oath
2 again.
3 I want to go through some
4 more documents with you this afternoon.
5 One of the things that I'm curious about
6 is vault access or cage access for the
7 controlled products. Is that something
8 that you understand?
9 A. Yes.
10 Q. Okay. Would you refer to
11 the area where controlled substances were
12 stored as the vault or the cage or what
13 term would you use?
14 MR. LAVELLE: Object to
15 form.
16 THE WITNESS: The cage.
17 BY MR. CLUFF:
18 Q. And was restricting or
19 granting access to the cage one of your
20 job responsibilities?
21 A. Yes.
22 Q. And that would have been
23 during the time that you were the
24 pharmacy manager from 2003 to 2014?

Page 174

1 A. Yes.
2 Q. What was the process for
3 approving somebody to get access to the
4 cage?

Row	Bar Length (approx. % of total width)
1	85
2	95
3	95
4	80
5	85
6	100
7	20
8	90
9	15
10	90
11	95
12	75
13	98
14	25
15	85

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6 Q. I'll hand you a document
7 that I marked as Frost Exhibit 3.

8 (Document marked for
9 identification as Exhibit
10 Rite Aid-Frost-3.)

11 BY MR. CLUFF:

12 Q. It was produced with Bates
13 Number Rite_Aid_OMDL_0023217.

Row	Bar Length (approx. % of total width)
1	75
2	95
3	90
4	85
5	25
6	85
7	100
8	90
9	85
10	75
11	95

Page 175

Page 177

Row	Bar Length (approx. % of total width)
1	95
2	35
3	85
4	90
5	88
6	85
7	50
8	60
9	50
10	85
11	92
12	65
13	85
14	25
15	90
16	100
17	50
18	50
19	95
20	20
21	50
22	75
23	95
24	85

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[REDACTED]

Page 180

1 Rite Aid-Frost-4.)
2 BY MR. CLUFF:
[REDACTED]

Page 179

[REDACTED]

20 Q. I'm going to hand you a
21 document that was produced by Rite Aid.
22 Rite_Aid_OMDL_0023287.
23 (Document marked for
24 identification as Exhibit

Page 181

[REDACTED]

Page 182

[REDACTED]

Page 184

[REDACTED]

19 Q. I'm going to hand you an
20 e-mail and attachment that we're going to
21 mark as Exhibit 5.
22 (Document marked for
23 identification as Exhibit
24 Rite Aid-Frost-5.)

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[REDACTED]

Page 185

1 BY MR. CLUFF:
2 Q. It's been produced as
3 Rite_Aid_OMDL_0012113. And the
4 attachment is 0012114.
5 Do you see there the cover
6 document is an e-mail?
7 A. Yes.

[REDACTED]

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[REDACTED]

Page 188

[REDACTED]

Page 187

[REDACTED]

Page 189

[REDACTED]

Page 190

[REDACTED]

Page 192

[REDACTED]

Page 191

[REDACTED]

Page 193

[REDACTED]

Page 194

[REDACTED]

Page 196

[REDACTED]

Page 195

[REDACTED]

Page 197

[REDACTED]

8 BY MR. CLUFF:

9 Q. I'm going to hand you a copy

10 of a document that was produced by Rite

11 Aid Rite_Aid_OMDL_0013963 and the

12 attachment to that document which begins

13 at Rite_Aid_OMDL_0013967 to 0013968.

14 (Document marked for

15 identification as Exhibit

16 Rite Aid-Frost-6.)

17 BY MR. CLUFF:

18 Q. Did you get a chance to

19 review that document?

20 A. I did.

[REDACTED]

Page 198

[REDACTED]

Page 200

[REDACTED]

Page 199

[REDACTED]

Page 201

[REDACTED]

Page 202

[REDACTED]

Page 204

[REDACTED]

Page 203

[REDACTED]

7 (Document marked for
8 identification as Exhibit
9 Rite Aid-Frost-7.)
10 BY MR. CLUFF:
11 Q. Let me give you another
12 document. We're going to mark it as
13 Exhibit 7. It's been produced as
14 Rite_Aid_OMDL_0011927 to 0011928.

[REDACTED]

Page 205

[REDACTED]

Page 206

[REDACTED]

Page 208

[REDACTED]

Page 207

[REDACTED]

Page 209

[REDACTED]

Page 214

[REDACTED]

Page 216

[REDACTED]

Page 215

[REDACTED]

Page 217

[REDACTED]

Page 218

[REDACTED]

Page 220

[REDACTED]

17 (Document marked for
18 identification as Exhibit
19 Rite Aid-Frost-9.)
20 BY MR. CLUFF:
21 Q. I'm going to hand you a copy
22 of a document produced by Rite Aid. It's
23 a two-page e-mail chain beginning at
24 Rite_Aid_OMDL_001825, to 001826.

Page 219

[REDACTED]

Page 221

[REDACTED]

Page 222

[REDACTED]

Page 224

[REDACTED]

Page 223

[REDACTED]

Page 225

[REDACTED]

Page 230

[REDACTED]

Page 232

[REDACTED]

Page 231

[REDACTED]

Page 233

[REDACTED]

Page 234

[REDACTED]

Page 236

[REDACTED]

Page 235

[REDACTED]

2 MR. CLUFF: We've been going
3 about an hour. Why don't we take
4 another break.
5 MR. LAVELLE: Sure.
6 THE VIDEOGRAPHER: Off
7 record at 1:42 p.m.
8 (Short break.)
9 HE VIDEOGRAPHER: We are
10 back on the record at 2:00 p.m.
11 BY MR. CLUFF:
12 Q. Okay. We are back on the
13 record. So you're back under oath,
14 Mr. Frost.
15 A. Okay.

[REDACTED]

Page 237

[REDACTED]

Page 238

Page 240

Page 238

Page 239

Page 241

Page 241

Category	Percentage
1	85
2	90
3	85
4	88
5	85
6	75
7	78
8	15
9	10
10	85
11	45
12	55
13	35
14	80
15	85
16	90
17	45
18	25
19	65
20	75
21	65
22	80
23	85
24	85
25	80
26	65
27	80
28	85
29	85
30	70
31	55

Page 242

[REDACTED]

Page 244

[REDACTED]

22 Q. I'll show you another
23 document produced by Rite Aid as
24 Rite_Aid_OMDL_0029175.

Page 243

[REDACTED]

Page 245

1 (Document marked for
2 identification as Exhibit
3 Rite Aid-Frost-12.)
4 THE WITNESS: Okay.
5 BY MR. CLUFF:

[REDACTED]

Page 246

[REDACTED]

Page 248

[REDACTED]

Page 247

[REDACTED]

Page 249

[REDACTED]

9 (Document marked for
10 identification as Exhibit
11 Rite Aid-Frost-13.)
12 BY MR. CLUFF:
13 Q. I'm going to hand you a
14 document that we're going to mark
15 Exhibit 13. It's Rite_Aid_OMDL_0013911,
16 and an e-mail attachment that has a
17 picture attached to that. The entire
18 chain runs from 13911 to 13914.
19 A. Okay.

[REDACTED]

Page 250

[REDACTED]

Page 252

[REDACTED]

Page 251

[REDACTED]

Page 253

[REDACTED]

Page 254

[REDACTED]

Page 256

[REDACTED]

Page 255

[REDACTED]

Page 257

[REDACTED]

7 Q. I'm going to hand you a
8 document and a copy of the spreadsheet
9 that was attached to it.
10 (Document marked for
11 identification as Exhibit
12 Rite Aid-Frost-14.)
13 BY MR. CLUFF:

[REDACTED]

Page 258

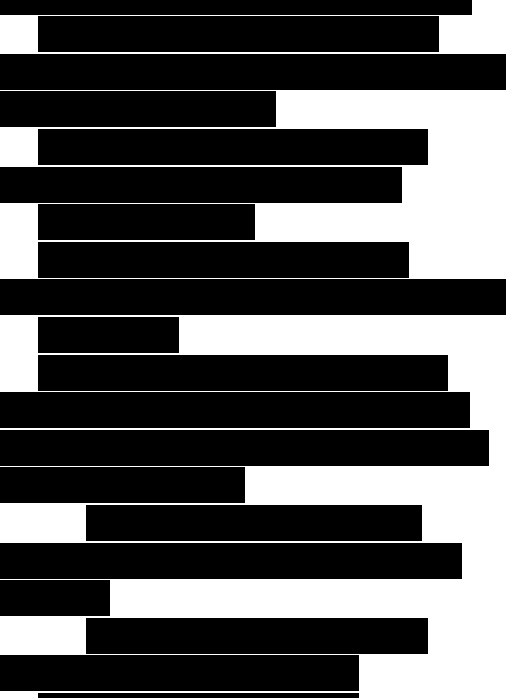
Page 260

Row	Bar Length (approx. %)
1	55
2	85
3	75
4	35
5	75
6	65
7	85
8	45
9	70
10	85
11	45
12	70
13	60
14	60
15	75
16	75
17	70
18	20
19	75
20	85
21	85
22	25
23	55
24	65

Page 259

Page 261

Row	Bar Length (approx. % of total width)
1	85
2	15
3	88
4	82
5	75
6	40
7	65
8	95
9	98
10	85
11	10
12	35
13	65
14	50
15	35
16	80
17	85
18	20
19	70
20	40
21	80



Page 262

[REDACTED]

Page 264

[REDACTED]

Page 263

[REDACTED]

Page 265

[REDACTED]

Page 266

[REDACTED]

Page 268

[REDACTED]

Page 267

[REDACTED]

Page 269

1 So I'm going to hand you a
2 document I'm going to mark as Exhibit 15.
3 It's been produced as
4 Rite_Aid_OMDL_0013234.
5 (Document marked for
6 identification as Exhibit
7 Rite Aid-Frost-15.)
8 BY MR. CLUFF:

[REDACTED]

Page 270

[REDACTED]

Page 272

[REDACTED]

Page 271

[REDACTED]

Page 273

[REDACTED]

Page 274

[REDACTED]

Page 276

[REDACTED]

Page 275

[REDACTED]

Page 277

[REDACTED]

21 (Document marked for
22 identification as Exhibit
23 Rite Aid-Frost-16.)
24 BY MR. CLUFF:

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1 Q. Okay. I'm going to hand you
2 a copy of a document that was produced as
3 Rite_Aid_OMDL_0015596 to 0015598. There
4 are two documents attached to that e-mail
5 which run from 0015599 to 0015677.

[REDACTED]

Page 280

[REDACTED]

Page 279

[REDACTED]

Page 281

[REDACTED]

Page 282

[REDACTED]

Page 284

[REDACTED]

Page 283

[REDACTED]

Page 285

[REDACTED]

9 Do you know what exception

10 reports are?

11 A. Exception reports?

12 Q. Yeah.

13 A. No, I -- I don't know. I

14 know the term, I don't really know which

15 particular reports exception reports

16 were.

17 Q. Were you required to work

18 with exception reports as the manager of

19 pharmacy in Perryman?

20 A. Like I said, I don't recall

21 the exception reports.

22 MR. CLUFF: Let's take a

23 break for five minutes. Let me

24 just look at my notes. I think

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1 I'm done.
2 THE VIDEOGRAPHER: Off the
3 record at 2:51 p.m.
4 (Short break.)
5 THE VIDEOGRAPHER: We are
6 back on the record at 2:58 p.m.
7 MR. CLUFF: This is
8 plaintiff's counsel, Sterling
9 Cluff. I'm not in the camera
10 because Mr. Lavelle and I have
11 switched seats. I have no further
12 questioning today for Mr. Frost.
13 Mr. Lavelle, I understand,
14 has some redirect so he is going
15 to take the mic.
16 MR. LAVELLE: Thank you.
17 - - -
18 EXAMINATION
19 - - -
20 BY MR. LAVELLE:
21 Q. Good afternoon, Mr. Frost.
22 A. Good afternoon.
23 Q. You were asked some
24 questions earlier today by plaintiff's

Page 287

1 counsel Mr. Cluff, in which you
2 referenced a DEA audit in 2012. Do you
3 recall that testimony, sir?
4 A. Yes, I do.
5 Q. Were you involved in the DEA
6 performing an audit of the Perryman
7 facility in 2012?
8 A. Yes, I was.
9 Q. What was your role with
10 respect to that audit?
11 A. Well, it's -- I was
12 responsible for escorting the two DEA
13 inspectors through the whole control drug
14 division -- I mean, cage to show them
15 physically what we all did, and provide
16 any documents that the inspectors
17 required.
18 Q. All right. I'd like to mark
19 an exhibit please.
20 (Document marked for
21 identification as Exhibit
22 Rite Aid-Frost-17.)
23 BY MR. LAVELLE:
24 Q. All right. Mr. Frost, we've

Page 288

1 put in front of you what we marked as
2 Exhibit Frost 17. Do you recognize this
3 document, sir?
4 A. Yes, I do.
5 Q. Can you tell us what it is?
6 A. It's a document that the two
7 DEA inspectors presented to myself and to
8 general managers, matter of fact, that
9 there was a notice of inspection of
10 control premises, that they were going to
11 do an audit of our facility.
12 Q. Do you see that there is a
13 date on this document?
14 A. Yes; December 10, 2012.
15 Q. December 10th, 2000 --
16 A. I mean, sorry. July 10,
17 2012. Sorry.
18 Q. Does looking at this
19 document, in particular, that date, help
20 you remember when the DEA came to the
21 Perryman facility in 2012?
22 A. Yes.
23 Q. When was that?
24 A. 10:50 in the morning.

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1 Q. And what day?
2 A. Oh, July 10, 2012.
3 Q. Is your signature on this
4 document somewhere?
5 A. Yes.
6 Q. Where is your signature on
7 this document?
8 A. Right next to Debra Chase's,
9 down in the bottom right.
10 Q. Did the DEA tell you in
11 advance that they were coming?
12 A. No.
13 Q. Was it a surprise then?
14 A. Yes.
15 Q. Did you spend time with the
16 DEA in addressing whatever issues they
17 had during the audit?
18 A. Yes.
19 Q. Did you supply information
20 to the DEA?
21 A. Yes.
22 Q. Did they ask questions of
23 you?
24 A. Yes.

Page 290

1 Q. Did they come back a second
2 day?
3 A. Yes.
4 Q. Were you involved in their
5 visit the second day?
6 A. I was.
7 Q. What did you do with the DEA
8 the second day they were there?
9 A. Same as the first day, if
10 they wanted other documents that we had
11 to request from corporate or any
12 additional information, we would provide
13 them. And then if they wanted to see the
14 control cage again.
15 Q. Did you have occasion to
16 write up a memorandum summarizing what
17 happened when the DEA came for this
18 audit?
19 A. Yes, I did.
20 MR. LAVELLE: I'd like to
21 mark another exhibit then please.
22 (Document marked for
23 identification as Exhibit
24 Rite Aid-Frost-18.)

Page 291

1 BY MR. LAVELLE:
2 Q. Mr. Frost, we've put in
3 front of you what we marked for
4 identification as Frost 18. It appears
5 to be an e-mail plus a document attached
6 to it. I want to ask you questions about
7 the e-mail first.
8 A. Sure.
9 Q. Do you recognize this
10 e-mail, sir?
11 A. Yes, I do.
12 Q. Did you write this e-mail?
13 MR. CLUFF: Mr. Lavelle, not
14 to interrupt, but I don't know
15 that we got the Bates number on
16 the record for the counsel on the
17 phone.
18 MR. LAVELLE: Okay. I'm
19 sorry. Very good point. For
20 Frost-17, the Bates number was
21 Rite_Aid_OMDL_0032621.
22 For Frost-18, which is a
23 document I currently am discussing
24 with the witness, it's

Page 292

1 Rite_Aid_OMDL_0012547 through
2 2549.
3 Thank you, Mr. Cluff.
4 BY MR. LAVELLE:
5 Q. So I think my question to
6 you, Mr. Frost, was did you send this
7 e-mail?
8 A. I did.
9 Q. And the subject line, can
10 you read that for us, please?
11 A. "Please review DEA audit
12 July 11th."
13 Q. Who did you send this e-mail
14 to?
15 A. All my direct reports, the
16 DEA coordinator, and the DEA clerk.
17 Q. And can you read for the
18 members of the jury who are viewing this
19 video, what you wrote in the text of your
20 e-mail?
21 A. On this first page here?
22 Q. Yes, please.
23 A. "Great job, everyone, for
24 making this audit very successful.

Page 293

1 Please share with our associates."
2 Q. Why did you send this e-mail
3 to the people you sent it to?
4 A. I wanted them to be aware of
5 all of the areas that the DEA auditors
6 looked at.
7 Q. And then we have an
8 attachment to this e-mail. I'd like you
9 to turn to the second page of this
10 document. It's got Bates Number 12548 on
11 it. Do you recognize this document, sir?
12 A. Yes.
13 Q. Did you prepare this
14 document?
15 A. I did.
16 Q. When did you prepare this
17 document?
18 A. On July 11th, after the
19 audit was completed.
20 Q. Why did you prepare this
21 document?
22 A. Well, I wanted all of the
23 addressees on the front of the document,
24 and I did send it to my corporate

<p style="text-align: right;">Page 294</p> <p>1 office -- office as well, to let them 2 know a summary of all the items that the 3 inspectors looked at, and the results of 4 each item that they looked at. 5 Q. All right. Can you read for 6 the members of the jury viewing this 7 video what you wrote under Roman 8 Numeral I at the top of this memo? 9 A. Roman Numeral I, "DC 10 DEA 10 audit results, no findings or 11 discrepancies, 100 percent 12 accountability." 13 Q. What did you mean when you 14 wrote that, Mr. Frost? 15 A. I meant that the DEA 16 inspectors can find nothing wrong or 17 inconsistent with how we operated the 18 control drug cage. 19 Q. What did you mean by 20 100 percent accountability? 21 A. That means every item that 22 we had stored, shipped, or received, we 23 could account for each and every item. 24 Q. All right. I just want to</p>	<p style="text-align: right;">Page 296</p> <p>1 A. "On Tuesday we also 2 conducted a physical count of eight 3 control drug items in both the forward 4 pick and the storage location. 5 100 percent correct. Today the 6 audits" -- "the auditors did an 7 accountability of wholesale years" -- 8 "whole year's worth of receipts, 9 distribution, which is movement, and 10 adjustments of these same eight items, 11 period 2 July, 2011, to 10 July, 2012. 12 The results were 100 percent 13 accountability." 14 Q. And that was accurate when 15 you wrote it? 16 A. Yes. 17 Q. You referred to in that 18 section a physical count of eight CD 19 items. What are you referring to there? 20 What does that mean? 21 A. The inspectors went in there 22 and said, "We want to look at these eight 23 control drug items, and we want to see 24 their storage, their receipts, the</p>
<p style="text-align: right;">Page 295</p> <p>1 take you now through -- briefly what you 2 have under Roman Numeral II, the summary 3 of the audit. 4 Can you read for the members 5 of the jury what you wrote under Number 1 6 there, please? 7 A. Yes. 8 "Two inspectors from the DEA 9 arrived yesterday at approximately 10 10:40 a.m. to conduct an unannounced 11 audit." 12 Q. And was that correct at the 13 time that you wrote it? 14 A. Yes. 15 Q. What did you write on 16 Number 2? 17 A. "On Tuesday they asked for 18 and received an organizational chart, 19 information on med turn, our reverse 20 distributor, which company does our drug 21 testing, which company handles our alarm 22 security, et cetera." 23 Q. And then what do you have 24 under Number 3?</p>	<p style="text-align: right;">Page 297</p> <p>1 distribution, and counts of these items 2 in the control cage." 3 Q. Did the DEA tell you in 4 advance which ones they were going to 5 pull? 6 A. No. 7 Q. Did they ask you to identify 8 which ones to look at? 9 A. No. 10 Q. They just randomly selected 11 some? 12 A. Correct. They just had a 13 list of items that we had in the control 14 cage, and they highlighted eight items 15 and said, "We want to see these items." 16 Q. Is that typical of the way 17 the DEA would conduct an audit in your 18 experience? 19 MR. CLUFF: Objection. 20 Calls for speculation. 21 BY MR. LAVELLE: 22 Q. In your experience, is 23 that -- 24 A. Out of the four, they all</p>

<p style="text-align: right;">Page 298</p> <p>1 did it the same way.</p> <p>2 Q. Number 4, you write that</p> <p>3 some more information about what the DEA</p> <p>4 inspectors arrived and looked at,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. What do you have listed</p> <p>8 there -- it's a long list, and I won't</p> <p>9 ask to you read them all. But you have</p> <p>10 Items A through N that the DEA inspectors</p> <p>11 looked at. What are those items?</p> <p>12 A. Looked at the control cage</p> <p>13 alarm test for vault and entire cage</p> <p>14 between us and checkpoint; provide copies</p> <p>15 of all state and DC licenses, as well as</p> <p>16 copy of the VAWD certificate; listed CD</p> <p>17 vendors and addresses; the filing of any</p> <p>18 thefts or losses that we might have</p> <p>19 occurred for that whole year period;</p> <p>20 looked at inventory results of the</p> <p>21 biennial and annual inventory; went to</p> <p>22 asset protection department to look at</p> <p>23 the camera monitoring room to observe;</p> <p>24 provided copy of CD pick list and receipt</p>	<p style="text-align: right;">Page 300</p> <p>1 to see that Rite Aid demonstrates its due</p> <p>2 diligence by having an excellent</p> <p>3 excessive order monitoring program. They</p> <p>4 mentioned that the DEA is taking a harder</p> <p>5 look at all distributors to ensure that</p> <p>6 order monitoring processes are in place</p> <p>7 and effective."</p> <p>8 Q. Mr. Frost, what do you</p> <p>9 recall about the discussions that you and</p> <p>10 your colleagues had with the DEA</p> <p>11 inspectors about the order monitoring</p> <p>12 program during this audit?</p> <p>13 A. All right. Well, what was</p> <p>14 nice about it when I brought them to the</p> <p>15 control cage, they saw that we had posted</p> <p>16 quantities not to exceed the threshold</p> <p>17 by. And one at random -- just talked to</p> <p>18 one of our pickers, asked them, "What do</p> <p>19 you do if you notice that the light</p> <p>20 lights up more than, for example, this</p> <p>21 item has." And the associate would</p> <p>22 explain to him what they do, talk to a</p> <p>23 lead, or a manager.</p> <p>24 We went from there and</p>
<p style="text-align: right;">Page 299</p> <p>1 POs that we use for receiving; observe</p> <p>2 the associates picking in the cage; and</p> <p>3 observed the associates using the new</p> <p>4 quality assurance stations to verify all</p> <p>5 control drug picks. And they liked the</p> <p>6 fact that we were using technology to</p> <p>7 reduce human error.</p> <p>8 Q. All right. You mentioned</p> <p>9 there under G, "File of thefts and losses</p> <p>10 106s from July 1, 2011, to July 10,</p> <p>11 2012."</p> <p>12 A. Correct.</p> <p>13 Q. What does that refer to?</p> <p>14 A. That would refer to any</p> <p>15 items that we thought through the</p> <p>16 receipt -- receipt process or any process</p> <p>17 that we would have filed with the DEA</p> <p>18 office, in the Baltimore office.</p> <p>19 Q. All right. I next want to</p> <p>20 turn to what you have under Roman Numeral</p> <p>21 III on your memory. Can you read that</p> <p>22 for the members of the jury, please?</p> <p>23 A. "Shout out, both DEA</p> <p>24 inspectors are very impressed and pleased</p>	<p style="text-align: right;">Page 301</p> <p>1 explained the whole excessive order</p> <p>2 monitoring process. We took them to the</p> <p>3 phone logbook, if we had to call the</p> <p>4 store, and what the lead or manager would</p> <p>5 do when they talk to the store, in other</p> <p>6 words find a -- resolve the issue, "Why</p> <p>7 did you order this? You're only going to</p> <p>8 get this amount." Explain why we only</p> <p>9 send them authorized quantity. They</p> <p>10 looked at our quality control purpose on</p> <p>11 how we did 100 percent audit on each and</p> <p>12 every tote and indicated any</p> <p>13 discrepancies on there. So if we had to</p> <p>14 investigate a forward pick we could.</p> <p>15 They were impressed with how</p> <p>16 we did our daily inventories and how we</p> <p>17 kept control of all of our totes that we</p> <p>18 sent to the outbound area, by tote ID and</p> <p>19 by store number and how if we ever on</p> <p>20 occasion thought that we might have</p> <p>21 overpicked a store, that we would</p> <p>22 physically go to the trailers ourselves,</p> <p>23 pull the totes off of the trailers before</p> <p>24 they even went to the stores, and pop all</p>

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1 the seals to investigate and do a tote
2 audit of those items that we were
3 sending.
4 Q. Let me follow up on a couple
5 of those specific items.
6 A. Sure.
7 Q. Mr. Frost, did you discuss
8 with the DEA that there was a threshold
9 system in place?
10 A. Yes. Established by
11 corporate office.
12 Q. And did you discuss with the
13 DEA during their audit in 2012 that the
14 limit for orders was 5,000 units?
15 A. Yes. We explained that
16 whole process and that's what they liked
17 about it too, that we had something
18 established from our headquarters.
19 Q. Did you discuss with the DEA
20 inspectors that there were some stores
21 for which there was a different limit
22 than 5,000?
23 A. Anything that was above the
24 threshold would have been approved. Yes,

Page 303

1 we discussed it with them, and they were
2 approved only by our corporate offices.
3 Q. Did you show the DEA
4 inspectors the excessive order logs?
5 A. Yes. We showed them all of
6 that.
7 Q. Was there anything that the
8 DEA asked for relating to your order
9 monitoring program that you were not able
10 to provide them?
11 A. Not that -- we were able to
12 provide them anything that they wanted to
13 see.
14 Q. And what was the end result
15 of this review by the DEA, what did they
16 tell you?
17 MR. CLUFF: Objection.
18 Calls for speculation.
19 THE WITNESS: I can only go
20 by what I repeat down here, that
21 they were very happy that we had
22 an effective program, that
23 everybody understood how it
24 operated.

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1 BY MR. LAVELLE:
2 Q. Did the DEA tell you that
3 you needed to make any changes in the
4 order monitoring program?
5 A. They did not.
6 Q. Now, at the end of this
7 audit, did the DEA give you anything else
8 to tell you that you had completed the
9 audit?
10 A. No. They don't give you any
11 findings or any recommendations. They
12 don't give you any report at all, I
13 believe.
14 Q. So the only document you
15 received from the DEA relating to this
16 audit was what we marked previously as
17 Frost 17; is that correct?
18 A. Correct. That's the only
19 document. They just call -- at the end,
20 they'll summarize it, call the general
21 manager in there and say we find nothing,
22 and then leave.
23 MR. LAVELLE: That's all I
24 have for you. Thank you,

Page 305

1 Mr. Frost.
2 THE WITNESS: You're
3 welcome.
4 MR. CLUFF: Let me break
5 five minutes. Not even five. Two
6 minutes.
7 THE VIDEOGRAPHER: Off the
8 record at 3:13 p.m.
9 (Short break.)
10 THE VIDEOGRAPHER: We are
11 back on the record at 3:20 p.m.
12 - - -
13 EXAMINATION
14 - - -
15 BY MR. CLUFF:
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

Page 306

[REDACTED]

Page 308

[REDACTED]

Page 307

[REDACTED]

Page 309

[REDACTED]

Page 310

[REDACTED]

Page 312

[REDACTED]

Page 311

[REDACTED]

Page 313

[REDACTED]

Page 314

[REDACTED]

Page 316

[REDACTED]

Page 315

[REDACTED]

Page 317

[REDACTED]

Page 318

Page 320

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Page 323

Page 325

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Page 328

1 time is 3:35 p.m. We are off the
2 record.
3 (Excused.)
4 (Deposition concluded at
5 approximately 3:35 p.m.)

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Page 329

CERTIFICATE

I HEREBY CERTIFY that the witness was duly sworn by me and that the deposition is a true record of the testimony given by the witness.

It was requested before completion of the deposition that the witness, KEITH FROST, have the opportunity to read and sign the deposition transcript.

MICHELLE L. GRAY,
A Registered Professional
Reporter, Certified Shorthand
Reporter, Certified Realtime
Reporter and Notary Public
Dated: January 18, 2019

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)

15 BY MR. CLUFF:

Q. Okay.

MR. CLUFF: That's all I got.

MR. LAVELLE: No further questions for the witness.

The witness reserves the right to read and sign.

THE VIDEOGRAPHER: This concludes this deposition. The

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INSTRUCTIONS TO WITNESS

1
2
3 Please read your deposition
4 over carefully and make any necessary
5 corrections. You should state the reason
6 in the appropriate space on the errata
7 sheet for any corrections that are made.
8 After doing so, please sign
9 the errata sheet and date it.
10 You are signing same subject
11 to the changes you have noted on the
12 errata sheet, which will be attached to
13 your deposition.
14 It is imperative that you
15 return the original errata sheet to the
16 deposing attorney within thirty (30) days
17 of receipt of the deposition transcript
18 by you. If you fail to do so, the
19 deposition transcript may be deemed to be
20 accurate and may be used in court.
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E R R A T A
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4 **PAGE LINE CHANGE**
5 _____
6 **REASON:** _____
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ACKNOWLEDGMENT OF DEPONENT

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3
4 I, _____, do
5 hereby certify that I have read the
6 foregoing pages, 1 - 333, and that the
7 same is a correct transcription of the
8 answers given by me to the questions
9 therein propounded, except for the
10 corrections or changes in form or
11 substance, if any, noted in the attached
12 Errata Sheet.
13
14
15 _____
16 **KEITH FROST** **DATE**
17
18
19 Subscribed and sworn
20 to before me this
21 _____ day of _____, 20____.
22 My commission expires: _____
23
24 _____
25 **Notary Public**

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LAWYER'S NOTES

1 **PAGE LINE**
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